

# NOW & NEXT

## Healthcare Alert

MARCH 18, 2022

### New York State Department of Health drops COVID-19 booster requirement for healthcare workers

By Justin D. Pfeiffer

The Department previously stated that it would not enforce the booster requirement until at least May 2022.



#### What's the Impact?

- / Healthcare providers are no longer required to ensure that healthcare workers receive COVID-19 booster shots
- / Providers must continue to ensure that healthcare workers are "fully vaccinated" against COVID-19 in accordance with CDC guidance

At a Special Meeting held on March 17, 2022, the New York State Public Health and Health Planning Council (PHHPC) adopted a [new version](#) of the emergency regulations that currently require healthcare workers to be vaccinated against the COVID-19 virus, subject to certain exceptions. Significantly, the new version omits language that previously required healthcare workers to receive a booster dose of COVID-19 vaccine.

Although the latest version does not highlight its omission of the booster requirement for healthcare workers, the New York State Department of Health (NYSDOH) declared its intent to drop the requirement during its presentation to PHHPC. NYSDOH emphasized that the regulations will continue to require healthcare workers to be "fully vaccinated," while referring to

Centers for Disease Control and Prevention (“CDC”) guidelines to define what the term “fully vaccinated” means.

Notably, the CDC’s [current guidance](#)<sup>1</sup> indicates that, for all vaccines and populations, a person is fully vaccinated two weeks after receiving the second dose of the vaccine’s primary series—or two weeks after the single-dose Johnson & Johnson (Janssen) vaccine. The booster shot is not included in any primary series and, therefore, not required to be considered fully vaccinated.

On February 18, 2022, NYSDOH had [stated it would not enforce](#) the booster shot requirement for healthcare workers, pending an assessment after three months. NYSDOH’s latest revision to the emergency regulations suggests that it no longer anticipates performing the reassessment.

NYSDOH indicated that it expects to file the latest emergency regulations on March 22, 2022—the day after the current emergency regulations expire. Upon filing, the regulations will take effect and be posted [here](#). The emergency regulations will then expire after another 90 days, subject to further renewal. It remains to be seen whether NYSDOH will seek permanent adoption of regulations requiring COVID-19 vaccination for healthcare workers.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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<sup>1</sup> As of March 18, 2022.