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ORDER OF THE COMMISSIONER OF PUBLIC HEALTH REGARDING THE REQUIREMENT FOR PERSONNEL AT ASSISTED LIVING RESIDENCES TO BE VACCINATED AGAINST INFLUENZA VIRUS

On March 10, 2020, Governor Charles D. Baker declared a State of Emergency in the Commonwealth to respond to the spread of COVID-19. The Public Health Council has approved and authorized me to take such actions, incur such liabilities, and establish such rules, requirements, and procedures which are necessary to prepare for, respond to, and mitigate the spread of COVID-19 in order to protect the health and welfare of the people of the Commonwealth, consistent with the Governor's declaration.

As of October 4, 2020, the Department reported 132,440 confirmed cases of COVID-19 and 9,295 deaths among confirmed cases in the Commonwealth. As of that date, assisted living residences in the Commonwealth had reported more than 2,300 confirmed or probable cases of COVID-19 and more than 475 deaths among residents and staff. Influenza and COVID-19 present increased risk of severe illness, complications, and death to older adults and particularly those with chronic conditions. Immunization is the most effective method for preventing infection from influenza and possible hospitalization or death. Further, responding to and treating outbreaks of seasonal influenza utilizes many of the same resources necessary to respond to cases of COVID-19, including personnel, hospital beds and personal protective equipment.

Accordingly, having received that authorization from the Council, and with the approval of the Governor, I issue the following Order:

All assisted living residences (ALRs) certified pursuant to G.L. c. 19D must ensure that all personnel are vaccinated against seasonal influenza virus by December 31, 2020, unless such administration is medically contraindicated, which means administration of influenza vaccine is likely to be detrimental to the individual's health, or vaccination is against the individual's religious beliefs. Personnel may not otherwise decline the vaccine.

For purposes of this Order, personnel means an individual or individuals employed by or affiliated with the ALR, whether directly, by contract with another entity, or as an independent contractor, paid or unpaid including, but not limited to, employees, members of the medical staff, contract employees or staff, students, and volunteers who either work at or come to the certified ALR site, whether or not such individual(s) provide direct care.

All ALRs subject to this Order must maintain documentation of vaccination of personnel and must report to the Executive Office of Elder Affairs (EOEA) no later than January 15, 2021, in a form and manner directed by EOEA.

Violations of this Order shall be enforced against certified ALRs as provided by 651 CMR 12.00.

This Order shall remain in effect until the State of Emergency is terminated by the Governor, or until rescinded by me, whichever shall happen first.

IT IS SO ORDERED.

Margret R. Cooke
Acting Commissioner, Massachusetts Department of Public Health

October 6, 2020