



Office of
Mental Health

Commissioner's Regulatory Waiver

**WAIVER ISSUED TO HELP SERVICE PROVIDERS MEET LOCAL NEEDS
WHILE MAINTAINING PROGRAM INTEGRITY.**

July 5, 2023

WHEREAS, on April 15, 2021, United States Health and Human Services Secretary Xavier Becerra, continued a public health emergency for the United States in responding to COVID19; initiated by former Secretary Alex M. Azar II on January 31, 2020;

WHEREAS, on November 26, 2021, Governor Kathy Hochul declared a State disaster emergency for the entire State of New York due to the transmission of COVID-19 in the State of New York which concluded on September 12, 2022;

WHEREAS, on November 5, 2021, the U.S. Department of Health and Human Services' Centers for Medicare & Medicaid Services (CMS) issued an interim final rule (CMS-3415-IFC) requiring Medicare and Medicaid-certified providers and suppliers to ensure that their staff were fully vaccinated for COVID-19 (i.e., obtain the primary vaccination series);

WHEREAS, on September 8, 2022, the Office of Mental Health (Office) permanently adopted 14 NYCRR Part 557, which implemented a COVID-19 vaccination program;

WHEREAS, on April 10, 2023, the President signed legislation that ended the COVID-19 national emergency and subsequently on May 11, 2023, the COVID-19 public health emergency expired;

WHEREAS, on May 1, 2023, the Federal Government announced that the United States Department of Health and Human Services will start the process to end their vaccination requirements for healthcare facilities certified by the Centers for Medicare and Medicaid Services;

WHEREAS, in light of these developments, CMS has stated that it will end the requirement that covered providers and suppliers establish policies and procedures for staff vaccination, which would bring the state and federal requirements into alignment.

NOW, THEREFORE, IT IS HEREBY ORDERED that, pursuant to Section 501.3 of Title 14 of the NYCRR, the Office will cease citing employees for failing to comply with the requirements of 14 NYCRR Part 557 while the repeal is conducted pursuant to the State Administrative Procedure Act. The Office may, however, continue to seek sanctions based on previously cited violations that allegedly occurred.

This Order shall be deemed effective as of July 5, 2023, and shall remain in effect until stayed, modified, suspended or terminated by the Commissioner or, when 14 NYCRR Part 557 is officially repealed.

WITNESS, my hand and official seal of the New York State Office of Mental Health at the City of Albany, New York, this 5th day of July in the Year two thousand and twenty-three.



Ann Marie T. Sullivan, MD
Commissioner of the Office of Mental Health