



KATHY HOCHUL
Governor

ANN MARIE T. SULLIVAN, M.D.
Commissioner

MOIRA TASHJIAN, MPA
Executive Deputy Commissioner

TO: NYS Article 31 Mental Health Provider Agencies
NYS Article 28 Hospital Provider Facilities
OMH-Operated Psychiatric Centers

DATE: July 5, 2023

RE: OMH Vaccine Regulation 14 NYCRR Section 557 Waiver

On April 18 and 19, 2023, the United States Food and Drug Administration, and Centers for Disease Control and Prevention, updated their COVID-19 vaccine guidance and amended authorizations and recommendations to allow the current bivalent mRNA COVID-19 vaccine to be used in place of the original monovalent mRNA COVID-19 vaccine primary series. In addition, on May 1, 2023, the United States Department of Health and Human Services started the process to end their vaccination requirements for healthcare facilities certified by the Centers for Medicare and Medicaid Services.

At this time, the New York State Office of Mental Health (OMH) has recommended and the Behavioral Health Services Advisory Council has approved repeal of 14 NYCRR Section 557 (COVID-19 Vaccination Program), which requires that personnel in covered entities be fully vaccinated against COVID-19. Effective immediately, OMH will cease citing providers for failing to comply with the requirements of 14 NYCRR Section 557. However, OMH may continue to seek sanctions against providers based on previously cited violations that allegedly occurred.

A waiver pursuant to Section 501.3 of Title 14 of the NYCRR, has been signed by OMH Commissioner Ann Sullivan and is located on the OMH guidance website at <https://omh.ny.gov/omhweb/guidance/>. Additionally, the OMH *Guidance Regarding Federal COVID-19 Vaccination Mandates* which was last updated January 26, 2022, has been removed from the OMH website.

Mental health care facilities licensed under Mental Hygiene Law Article 31, and programs operated pursuant to 14 NYCRR Parts 580, 582, or 590 should individually consider how to implement their own internal policies regarding COVID-19 vaccination while remaining in compliance with applicable state and federal law.