

STATE OF CONNECTICUT

BY HER EXCELLENCY

SUSAN BYSIEWICZ

EXECUTIVE ORDER NO. 13B

**PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC –
LONG-TERM CARE FACILITY STAFF VACCINATION**

WHEREAS, on March 10, 2020, Governor Lamont declared public health and civil preparedness emergencies throughout the State of Connecticut as a result of the coronavirus disease 2019 (COVID-19) outbreak caused by the SARS-Cov-2 virus in the United States and Connecticut; and

WHEREAS, on several occasions since March 10, 2020, acting within his authority pursuant to Sections 19a-131 and 28-9 of the Connecticut General Statutes as well as Special Acts 21-2, 21-4, and 21-5 of the General Assembly, and in response to the continued need to respond adequately to the COVID-19 pandemic, Governor Lamont renewed the declarations of public health and civil preparedness emergencies and also issued new declarations of public health and civil preparedness emergencies; and

WHEREAS, pursuant to such declarations, Governor Lamont has issued various executive orders to protect public health, limit transmission of COVID-19, and mitigate the effects of the COVID-19 pandemic; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, the World Health Organization has declared the COVID-19 outbreak a pandemic; and

WHEREAS, COVID-19 presents increased risk of severe illness, complications, and death to older adults and particularly those with chronic conditions; and

WHEREAS, COVID-19 deaths among nursing home residents and staff members accounted for nearly one third of the nation's pandemic fatalities; and

WHEREAS, the Delta variant of COVID-19 is highly contagious and spreads more easily and quickly than other COVID-19 variants; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC) and Connecticut Department of Public Health (DPH), the number of COVID-19 cases associated with the Delta variant and the overall rate of infection and hospitalization has increased significantly in Connecticut, such that the CDC considers transmission at substantial levels in seven Connecticut counties and high in the remaining county; and

WHEREAS, after a steady and significant decline, nursing homes in Connecticut have experienced a significant increase in COVID-19 infection rates that corresponds with the increased prevalence of the Delta variant, with staff cases doubling and resident cases increasing by more than 8 times in the last three weeks; and

WHEREAS, in nursing home settings the risk of COVID-19 infection is higher because of the concentration of large numbers of people and the presence of people with underlying conditions or compromised immune systems; and

WHEREAS, vaccines are widely available in Connecticut; and

WHEREAS, immunization is the most effective method for preventing and mitigating infection from COVID-19, including possible hospitalization or death; and

WHEREAS, as of July 25, 2021, fifty-five percent of nursing home facilities in Connecticut had a staff vaccination rate under seventy-five percent and only twenty-one percent of nursing homes in Connecticut had a staff vaccination rate of eighty-five percent or over; and

WHEREAS, the significant percentage of unvaccinated staff in such facilities increases the risk of COVID-19 transmission among residents and places this vulnerable population at increased risk of severe symptoms, hospitalization, and death; and

WHEREAS, such risks are heightened greatly for long-term care facility residents who, for medical reasons, are unable to receive a vaccination but do not have the option of avoiding such settings; and

WHEREAS, even small numbers of COVID-19 cases in long-term care facilities lead to increased limitations and restrictions on visits by family members, friends, and loved ones, putting at risk the emotional and social well-being of all residents; and

WHEREAS, increasing the percentage of vaccinated personnel in long-term care facilities will better protect both residents and staff and reduce the likelihood of restrictions on visitation; and

WHEREAS, the increase in infections and hospitalizations has led to increased requirements for use of protective masks in indoor settings and, without the measures detailed in this order to limit the surge in infections, could result in additional impediments to conducting social, civic, recreational, and business activity; and

WHEREAS, responding to and treating outbreaks of COVID-19 consumes priority healthcare resources including personnel, hospital beds, and personal protective equipment, jeopardizing the efficient operation of the statewide healthcare infrastructure and thereby endangering public health and safety; and

WHEREAS, section 19a-491c of the Connecticut General Statutes currently imposes certain requirements on long-term care but conflicts with the protection of public health by not having a

process to address the greater risks posed by unvaccinated individuals who have direct access to patients and residents; and

WHEREAS, the COVID-19 pandemic remains a grave threat to public health and safety and civil preparedness in the State of Connecticut; and

WHEREAS, I have consulted with Governor Lamont, who is temporarily out of state, and am issuing this order in my capacity as Acting Governor pursuant to Article IV, Section 18 of the Constitution of the State of Connecticut;

NOW, THEREFORE, I, SUSAN BYSIEWICZ, Acting Governor of the State of Connecticut, by virtue of the authority vested in me by the Constitution and laws of the State of Connecticut, do hereby **ORDER AND DIRECT**:

1. **Definitions.** For purposes of this order, the definitions in section 19a-491c of the Connecticut General Statutes are modified as follows:

- a. “long-term care facility” means any facility, agency or provider that is a nursing home, as defined in section 19a-521, a residential care home, as defined in section 19a-521, an assisted living services agency, as defined in section 19a-490, an intermediate care facility for individuals with intellectual disabilities, as defined in 42 USC 1396d(d), managed residential community as defined in section 19a-693a, or a chronic disease hospital, as defined in section 19a-550; and
- b. “direct access” means physical access to a patient or resident of a long-term care facility.
- c. “fully vaccinated” means at least 14 days have elapsed since a person has received the final dose of a vaccine approved for use against COVID-19 by the U.S. Food and Drug Administration, or as otherwise defined by the Centers for Disease Control.

2. **Long-term Care Facility Vaccination Requirements.** Section 19a-491c of the Connecticut General Statutes is modified by adding the requirements that by September 7, 2021, long-term care facilities shall:

- a. prior to extending an offer of employment to, or entering into a contract with an individual or an entity that provides individuals under the contract who will have direct access, or prior to allowing any individual to begin volunteering at such long-term care facility who will have direct access, shall require that any such individual is (i) fully vaccinated against COVID-19, (ii) has received the first

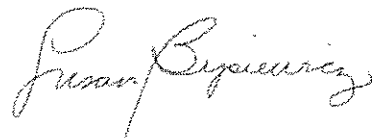
dose and has either received a second dose or has an appointment for the second dose in a two-dose series vaccination, such as Pfizer or Moderna vaccines, or has received a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine, or (iii) exempt from this requirement because a physician, physician's assistant, or advanced practice registered nurse determined that the administration of COVID-19 vaccine is likely to be detrimental to the individual's health, or the individual objects to vaccination on the basis of a sincerely held religious belief, and the individual is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the long-term care facility; and

- b. not employ, or maintain a contract for, the provision of services where any individual will have direct access, or allow any volunteer to continue volunteering at such long-term care facility when such volunteer will have direct access, unless such individual (i) is vaccinated against COVID-19, (ii) has received the first dose and has either received a second dose or has an appointment for the second dose in a two-dose series vaccination, such as Pfizer or Moderna vaccines, or has received a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine, or (iii) is exempt from this requirement because a physician, physician's assistant, or advanced practice registered nurse determined that the administration of COVID-19 vaccine is likely to be detrimental to the individual's health, or the individual objects to vaccination on the basis of a sincerely held religious belief, and the individual is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the long-term care facility; and
 - c. authenticate the vaccination status of individuals subject to this order, maintain documentation of vaccination or exemption of such individuals and report compliance with this order, in a form and manner directed by the Department of Public Health in an order which may be imposed without adoption of such requirements by regulation in accordance with Chapter 54 of the Connecticut General Statutes.
3. **Failure to Receive Second Dose.** Long-term care facilities shall not employ, or contract for the provision of services from, any individual described in Section 2(a) or 2(b) of this order who has received the first dose of a two-dose series vaccination but fails to receive the second dose on the appropriate date or at the scheduled appointment without good cause.

4. **Civil Penalties for Failure to Comply With this Order.** The failure of a long-term care facility to comply with this order shall be subject to a civil penalty of twenty-thousand dollars per day. Any long-term care facility subject to such penalty may use the procedure and process provided in section 19a-525 of the General Statutes. A long-term care facility shall be in violation of this order when it permits an employee, an individual who provides services under a contract, or a volunteer who has not been vaccinated in accordance with this order physical access to a patient, resident of a long-term care facility, or other employees, individuals who provide services under a contract, or volunteers who have direct access to patients or residents. A long-term care facility also commits a violation if it fails to maintain documentation of vaccination and exemptions or if the long-term care facility fails to timely report to the Department of Public Health. Failure to comply with this order may also constitute an imminent danger to the health, safety, or welfare of any patient pursuant to section 19a-534 of the Connecticut General Statutes.

This order shall take effect immediately and remain in effect through September 30, 2021 unless earlier modified or terminated.

Dated at Hartford, Connecticut, this 6th day of August, 2021.



Susan Bysiewicz
Acting Governor

By Her Excellency's Command



Denise W. Merrill
Secretary of the State

