



New York State  
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Howard Zucker, M.D.  
Commissioner  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

Dear Commissioner Zucker:

The NYS Department of Health released new guidance documents for returning employees to work from quarantine or isolation. The targeted employee populations include Health Care Practitioners (HCP), Law Enforcement and those deemed to be Essential workers. The guidance documents are intended to address extreme staffing shortages due to the COVID-19 pandemic. A Department with a long history as the watchdog of public health, DOH sadly misses the mark with these new guidance documents. Rather than protecting the public, these guidelines will put more workers and the public at risk of infection.

The return to work plans intentionally bring COVID-19 suspected (PUI), confirmed COVID-19 positive (COVID-19+) but asymptomatic, and most disturbingly COVID-19+ symptomatic persons back into the workplace with few controls to protect the rest of workforce or the public, much less the very workers they are bringing back.

The Public Employees Federation well understands the severe problems with the alarming increases in COVID-19+ cases and the stress put on hospitals as the pandemic surges in New York State. The shortages of Personal Protective Equipment (PPE) for HCPs, emergency responders and other direct care staff puts frontline workers, including PEF members, at increased risk of exposure and illness. Fear of critical short staffing calls for increased protections for workers, not less. We have grave concerns with the provisions of the new guidance documents, and the safety of our members and the public.

And, while we applaud DOH for pre-planning for critical shortages in healthcare settings, these types of crisis guidance plans should only be considered when a hospital or facility has actually been determined to be in crisis mode, preferably by the DOH. They are really designed for those agencies with direct care or first

responder responsibilities who may experience extreme shortages from an infection depleted workforce. And even then, those agencies should not be allowed to solely determine when their operations are imperiled by continuing quarantine and isolation protocols for workers defined in this document.

Agencies across the state, whether facility-based or not, will use the guidance to prematurely return workers to worksites and greatly increase the spread of the virus. Implementing the provisions in the guidance document now flies in the face of the control measures New York State has used to try to flatten the curve at the apex of the outbreak. DOH should only operationalize this guidance for a DOH crisis-designated facility and when there is a guarantee that all healthcare workers and other essential personnel have on demand access to testing.

The new guidance documents make clear that each order is contingent on the staffing levels for the worksite. However it is unclear how the agencies will measure staffing, or even what other steps they would have to take before invoking the return to work orders.

There is also a noticeable lack of added control measures should PUIs and COVID-19+ workers be brought back into the workplace, such as enhanced cleaning and disinfecting procedures, cohorting employees in the same category of exposure risk, staggering start times to limiting exposure to those who are not COVID-19+, and others.

### **ENDING QUARANTINE AND ISOLATION EARLY PUTS WORKERS AND THE PUBLIC AT RISK**

The ill-advised guidelines call for returning those PUIs who have had a significant contact with a COVID-19+ person, are confirmed COVID-19+ but asymptomatic, or COVID-19+ active but recovering. Issues include:

- Bringing back people who have had a significant exposure to or are themselves COVID-19+ but asymptomatic or “mildly” symptomatic, presents a great danger of exposure for the coworkers, other building occupants and the public.
- The virus is spread in droplet form, which can be inhaled or transmitted by contact. The simple act of breathing can shed the virus in a 6 foot area (the area used for social distancing). The purpose of masking someone who is COVID-19+, whether symptomatic or not, is to prevent the droplets from being expelled through breath. Even though the guidelines call for masking these persons, there is still a real danger of the virus being spread.
- The guidance also provides for return to work for COVID-19+ who are symptomatic, but their symptoms are improving. That is not defined in the guidance document. A separate document released on 3/28/2020, DOH Health Advisory: COVID-19 Release From Home Isolation, indicates improvement of symptoms are those respiratory symptoms such as cough and shortness of breath. Are we to assume that the worker cannot be released from home isolation until such time as they no longer have cough,

shortness of breath and fever? And that somehow that means they are no longer contagious? If the presumption is that someone who is not coughing, and who does not have shortness of breath or fever will not spread virus (and there is no evidence that this is so), then how is it that asymptomatic COVID-19+ carriers spread the virus so widely to begin with?

- Symptomatic people are coughing and sneezing which greatly increases the amount of the virus released in the droplets and propels them farther. Like the PUIs and asymptomatic COVID-19+, the “mildly symptomatic” COVID-19+ workers are also required to wear a mask. However, the increased viral load from coughing and sneezing leads to a greater chance of transmission of the virus. Surgical masks are not sealed and will not stop transmission in same way a mask for an asymptomatic COVID-19+ might. Bringing symptomatic COVID-19+ employees back into the workplace before they have had a chance to fully recover is just too risky.
- It is also not good enough to simply put a surgical mask on a symptomatic COVID-19+ person, you would have to mask everyone who came into close proximity contact with them as standard droplet precautions require. Under those standard precautions, HCPs wear masks, respirators and eye protection when treating COVID-19+ patients. Why would protections be any less in the workplace?

### **IF WE ARE FACING A CRITICAL PPE SHORTAGE – WHY USE MORE?**

- According to the guidance documents, the employees being returned to work must wear face masks at a time when other employees are not being provided with PPE due to conservation efforts at every NY State agency. Direct care providers are scrambling for PPE and supplies are running out.
- This puts those returned workers at risk of stigmatization if they are provided with PPE that other workers are not given to wear. If such PPE is required for those workers defined in the guidance, then it should be required for all workers.
- The guidance documents also do not address the problems associated with extended use and reuse of masks. Without adequate supplies of PPE, masks are to be worn for far longer periods, making them less effective.
- As the pandemic continues, the lack of supplies will only get worse. Why use more for those who should be quarantined or isolated?

## **IMPORTANCE OF QUARANTINE, SOCIAL DISTANCING AND COHORTING TO LIMIT VIRUS SPREAD**

- Bringing back positive and asymptomatic COVID-19+ individuals is contrary to the purpose of social distancing and quarantining, the whole point of which is to keep those who are infected away from people who are not. These new procedures put more workers at risk of contagion.
- The 14-day quarantine, isolation of symptomatic COVID-19+s and strict social distancing, along with other control measures such as staggering the work force and limiting contact with high risk individuals, has been shown to decrease the spread of the virus, and is a key part of the strong response by New York State. Shortening the quarantine and isolation periods undermine this approach, and can only result in an increase of exposure for people on the job as well as for those they contact when traveling to and from work. Exposure is even higher in those areas that use public transportation. These COVID-19+positive workers will be exposing other people on the train and bus every day as they make their way to and from work. New York State should not knowingly send its infected employees onto public transportation while at the same time encouraging citizens and the sick to stay home.
- The 3/28/2020 DOH Health Advisory on the COVID-19 Release from Home Isolation states that to further reduce the risk of transmission, “individuals returning from isolation should continue to practice proper hygiene protocols (e.g., hand washing, covering coughs) and avoid prolonged, close contact with vulnerable persons (e.g. compromised immune system, underlying illness, 70 years of age or older)”. Yet the guidance documents make little mention of cohorting those who are returning to work together and separating them from other employees. This is in stark contrast to the 3/28/20 Health Advisory which states that these people should also avoid prolonged contact with those high risk individuals, all of which are likely in a closed work environment.
- There is little evidence that most facilities have adopted strict isolation and cohorting of Covid-19 patients, as the CDC recommends for critical shortages of PPE. The guidance should include a plan for strict isolation in a facility including quarantine areas, “clean areas, “hot zones” and strict PPE donning and doffing areas. There should be detailed guidance on where these at-risk employees are to doff PPE and exit the facility.

## **INCONSISTENCIES AND CONTRADICTIONS WITH OTHER GUIDANCE**

There are a number of inconsistencies with other DOH guidance documents and protocols, including:

- Those who become symptomatic are sent home for at minimum a 7-day isolation period, while at the same time bringing symptomatic people back into workplace. It just does not make sense.
- The guidance also calls for the recalled workers to self-quarantine or self-isolate outside of work, which is in direct conflict with having them at work to begin with. How can a partial quarantine or isolation possibly be effective?
- In the DOH's own guidelines on quarantine, they direct the contact of a COVID-19+ to quarantine at home for 14 days. The new guidelines direct workers who are contacts with COVID-19+s to continue working with a face mask for 14 days. The instructions are in direct conflict with each other.

### **ADDITIONAL ISSUES:**

- The returning workers are asked to self-monitor and take their temperature at least twice during the day. Will they be provided with personal thermometers? Will they share a single unit? Will no-touch units be used? How will they be assured the thermometers will not cross contaminate them for other illnesses? There is also no provision for the employer to monitor and track these workers.
- Testing kits are in short supply, so it becomes more difficult to determine if someone is negative or positive for COVID. We must assume based on symptoms that people are positive and keep them out of work force until fully recovered.
- The anxiety of an already fearful workforce will greatly increase due to people being afraid of who they are working with. This could lead to shunning, bullying, harassment and discrimination of PUIs and COVID-19+ people by their co-workers, patients, inmates, and the individuals they serve, and undermines the trust of the public at large.
- According to the guidance documents, testing will be arranged for essential personal but only prioritized for health care workers. Shouldn't HCPs have testing arranged as well?
- If we are assuming that everyone is COVID-19+positive, as the guidance document states, then according to other DOH guidance documents they should not be working but rather quarantined or isolated at home.

### **SUMMARY**

Under these new and extremely problematic guidelines more people in the workplace will be exposed and potentially infected. This is unacceptable to PEF when there are clearly better ways to address staffing issues. We are vehemently

opposed to permitting confirmed or suspected COVID-19+ employees to return to work until they have completely recovered or are confirmed negative. Especially without vigorous control measures desperately needed to protect those who care for some of the most vulnerable people in New York.

The expanding shortage of health care worker and front-line workers should not cause the state to rush the return of COVID-19+ back to work. That approach can only backfire as more people will be exposed, causing more illness in the workforce, which will make the shortages only get worse.

Agencies are currently calling PUIs and COVID-19+ asymptomatic and symptomatic workers back onto the job before they have even reached a critical shortage of personnel or explored other staffing measures. Tests and PPE are in short supply, making social distancing and quarantine control measures all that much more important. Without them, putting COVID-19+ asymptomatic and symptomatic workers into a closed environment can only lead to worsening the outbreak amongst public employees and the individuals they serve. We are asking that DOH revise and amend these guidelines before compliance leads to a detrimental impact.

New York State cannot afford to put so many people's lives at risk when so much is at stake.

Sincerely,



Wayne Spence

President

NYS Public Employees Federation, AFL-CIO

cc: Robert Mujica, DOB