

COVID-19 Confirmatory Testing for Skilled Nursing Facilities

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The New York State Department of Health (“DOH”) issued new emergency regulations for healthcare facilities effective as of August 12, 2021. This Alert is limited to the requirements for Skilled Nursing Facilities.

Section 415.33 of 10 NYCRR Confirmatory Testing is added to the regulations as follows:

1. Any resident with symptoms of COVID-19 or who has been exposed to COVID-19 shall be tested for the COVID-19 virus, along with any other clinically appropriate testing.
2. Whenever a person expires while in a nursing home, where in the professional judgment of the nursing home clinician there is a clinical suspicion that COVID-19 was a cause of death, but no such test was performed in the 14 days before death, the nursing home shall administer a COVID-19 test within 48 hours after death, along with any other clinically appropriate testing. Such COVID-19 test shall be performed using rapid testing methodologies to the extent available.

The nursing home must report the death to the DOH immediately after and only upon receipt of such test results through the Health Emergency Response Data System (HERDS).

Notwithstanding the foregoing, no test shall be administered if the next of kin objects. Should the nursing home lack the ability to perform such testing expeditiously, the nursing home should request assistance from the DOH.

The emergency regulation can be accessed by clicking on [this link](#).

The [healthcare attorneys](#) at Abrams Fensterman, LLP are committed to providing you with the most current and accurate information and guidance. If you have any questions, please contact [Patrick Formato, Esq.](#), [Barbara Stegun Phair, Esq.](#), [Frank Mazzagatti, Esq.](#), [Michael Bass, Esq.](#), [Richard](#)

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