

Notice of Emergency Rule

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: RULE TITLE:

59AER23-2 Standards for the Appropriate Use of Facial Coverings for Infection Control

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Chapter 2023-043, Laws of Florida, the Agency for Health Care Administration is mandated to adopt this emergency rule and need not make these findings required by section 120.54(4)(a), Florida Statutes.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Agency for Health Care Administration is mandated by Chapter 2023-043, Laws of Florida, to adopt emergency rules to implement section 408.824, Florida Statutes.

SUMMARY: This emergency rule establishes facial covering requirements for health care practitioners and health care providers.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Jeremy Roberts at Agency for Health Care Administration, Division of Health Care Policy and Oversight, Bureau of Health Facility Regulation, 2727 Mahan Drive, MS# 28A, Tallahassee, FL 32308, email Jeremy.roberts@ahca.myflorida.com or phone 850-412-4432.

THE FULL TEXT OF THE EMERGENCY RULE IS:

59AER23-2 Standards for the Appropriate Use of Facial Coverings for Infection Control.

(1) Health care practitioners and health care providers may choose to require a patient to wear a facial covering only when the patient is in a common area of the health care setting and is exhibiting signs or symptoms of or has a diagnosed infectious disease that can be spread through droplet or airborne transmission.

(2) Health care practitioners and health care providers may choose to require a visitor to wear a facial covering only when the visitor is:

(a) Exhibiting signs or symptoms of or has a diagnosed infectious disease that can be spread through droplet or airborne transmission,

(b) In sterile areas of the health care setting or an area where sterile procedures are being performed,

(c) In an in-patient or clinical room with a patient who is exhibiting signs or symptoms of or has a diagnosed infectious disease that can be spread through droplet or airborne transmission, or

(d) Visiting a patient whose treating health care practitioner has diagnosed the patient with or confirmed a condition affecting the immune system in a manner which is known to increase risk of transmission of an infection from employees without signs or symptoms of infection to a patient and whose treating practitioner has determined that the use of facial coverings is necessary for the patient's safety.

(3) Opt-Out Requirements are as follows:

(a) Pursuant to 59AER23-2(1), health care practitioners and health care providers who choose to require a facial covering for any patient must include in the policy a provision for the opting-out of wearing a facial covering. Such policy must be in accordance with the Florida Patient Bill of Rights and Responsibilities, section 381.026, F.S.

(b) Pursuant to 59AER23-2(2), health care practitioners and health care providers who choose to require a facial covering for any visitor must include in the policy a provision for the opting-out of wearing a facial covering if an alternative method of infection control or infectious disease prevention is available.

(4) Health care practitioners and health care providers must allow an employee to opt out of facial covering requirements unless an employee is:

(a) Conducting sterile procedures,

(b) Working in a sterile area.

(c) Working with a patient whose treating health care practitioner has diagnosed the patient with or confirmed a condition affecting the immune system in a manner which is known to increase risk of transmission of an infection from employees without signs or symptoms of infection to a patient and whose treating practitioner has determined that the use of facial coverings is necessary for the patient's safety.

(d) With a patient on droplet or airborne isolation, or

(e) Engaging in non-clinical potentially hazardous activities that require facial coverings to prevent physical injury or harm in accordance with industry standards.

Rulemaking Authority 408.824 FS. Law Implemented 408.824 FS. History – New 6-30-23.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.