

Article 13 Amendments

Proposed changes to Article 13 were previously approved by the Board of Health on May 21, 2014. Additional revisions to the following sanitary code sections are further proposed.

Key to Article 13 revised amendments:

Deleted sanitary code text is [bracketed]. Inserted (new) text is underlined. Original revised text is highlighted in yellow. Additional revised text currently proposed is highlighted in pink.

§760-1340.4

The person-in-charge shall exclude [or restrict] a food employee [shall be excluded] from a food establishment if infected with such disease or who has become a carrier of such disease as specified in Part 2.50 of the New York State Sanitary Code or subsection 1.a.1(a) – (e) of this section, or who is jaundiced, and [if] in accordance with the following:

a. Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

- (1) Symptomatic with vomiting or diarrhea; or
- (2) Symptomatic with vomiting or diarrhea and diagnosed with an infection from **Norovirus**, *Shigella* spp., or enterohemorrhagic or Shiga toxin-producing *E. coli*.

b. Exclude a food employee who is:

- (1) jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by **Hepatitis A virus** or other fecal-orally transmitted infection;
- (2) diagnosed with an infection from **Hepatitis A virus** within 14 calendar days from the onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; or
- (3) diagnosed with an infection from **Hepatitis A virus** without developing symptoms.

c. Exclude a food employee who is diagnosed with an infection from *S. Typhi*, or reports a previous infection with *S. Typhi* within the past 3 months as specified under subsection 1340.1.a(4).

d. If a food employee is diagnosed with an infection from **Norovirus** and is asymptomatic:

- (1) exclude the food employee [who works in a food establishment serving a highly susceptible population; or
- (2) restrict the food employee who works in a food establishment not serving a highly susceptible population].

e. If a food employee is diagnosed with an infection from non-typhoidal *Salmonella* spp. or *Shigella* spp. and is asymptomatic:

- (1) exclude the food employee [who works in a food establishment serving a highly susceptible population; or



(2) restrict the food employee who works in a food establishment not serving a highly susceptible population].

f. If a food employee is diagnosed with an infection from enterohemorrhagic or Shiga toxin-producing *E. coli*, and is asymptomatic]:

(1) exclude the food employee [who works in a food establishment serving a highly susceptible population; or

(2) restrict the food employee who works in a food establishment not serving a highly susceptible population].

g. If a food employee is ill with symptoms of acute onset of sore throat with fever]:

(1) exclude the food employee [who works in a food establishment serving a highly susceptible population; or

(2) restrict the food employee who works in a food establishment not serving a highly susceptible population].

h. If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under subsection 1340.1.a(3), [restrict] exclude the food employee.

i. If a food employee is exposed to a foodborne pathogen as specified under subsection 1340.1.a(5), restrict the food employee [who works in a food establishment serving a highly susceptible population].

[a. The food employee is diagnosed with an infectious agent specified under Part 2.50 of the New York State Sanitary Code, including, but not limited to;

(1) salmonellosis, shigellosis, hepatitis A, shiga toxin-producing *Escherichia coli*, or
(1) jaundice of unknown origin;

b. If the food employee experiences a symptom such as diarrhea, fever, vomiting, or sore throat with fever caused by illness, infection, or other source that is associated with an acute gastrointestinal illness;]

Appendix F. Managing Removal, Adjustment or Retention of Food Worker Exclusions and Restrictions

The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

(A) Except when a food employee is diagnosed with an infection from **Hepatitis A virus** or **Salmonella Typhi**:

(1) Reinstate a food employee who was excluded as specified under subsection 1340.4.a(1) of this Article if the food employee:

(a) Is asymptomatic for at least 24 hours; or

(b) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.



(2) If a food employee was diagnosed with an infection from **Norovirus** and excluded as specified under subsection 1340.4.a(2) of this Article, []:

(a) restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under subsections (D)(1) or (2) of this Appendix are met; or

(b) retain the exclusion for the food employee[, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population,] until the conditions for reinstatement as specified under subsections (D)(1) or (2) of this Appendix are met.

(3) If a food employee was diagnosed with an infection from **Shigella spp.** and excluded as specified under subsection 1340.4.a(2) of this Article, []:

(a) restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under subsections (D)(1) or (2) of this Appendix are met; or

(b) retain the exclusion for the food employee[, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population,] until the conditions for reinstatement as specified under subsection (E)(1) of this Appendix is met.

(4) If a food employee was diagnosed with an infection from enterohemorrhagic or Shiga toxin-producing **Escherichia coli** and excluded as specified under subsection 1340.4.a(2) of this Article, []:

(a) restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under subsections (D)(1) or (2) of this Appendix are met; or

(b) retain the exclusion for the food employee[, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population,] until the conditions for reinstatement as specified under subsection (F)(1) of this Appendix is met.

(B) Reinstatement a food employee who was excluded as specified under subsection 1340.4.b of this Article if the person in charge obtains approval from the Commissioner or his/her designated representative and one of the following conditions is met:

(1) The food employee has been jaundiced for more than 7 calendar days;

(2) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; or

(3) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a **Hepatitis A virus infection.**

(C) Reinstatement a food employee who was excluded as specified under subsection 1340.4.c of this Article if:

(1) The food employee conforms to the requirements for the control of Typhoid contained in 10 NYCRR Part 2.28(b); and



- (2) The person in charge obtains approval from the Commissioner or his/her designated representative; and
- (3) The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *S. Typhi* infection.

(D) Reinstatement of a food employee who was excluded as specified under subsection 1340.4.a(2) or 1340.4.d(1) of this Article or who was restricted under subsection 1340.4.d(2) of this Article if the person in charge obtains approval from the Commissioner or his/her designated representative and one of the following conditions is met:

- (1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a **Norovirus** infection;
- (2) The food employee was excluded [or restricted] after symptoms of vomiting or diarrhea resolved, and more than [48]72 hours have passed since the food employee became asymptomatic; or
- (3) The food employee was excluded [or restricted] and did not develop symptoms and more than [48]72 hours have passed since the food employee was diagnosed.

(E) Reinstatement of a food employee who was excluded as specified under subsection 1340.4.a(2) or 1340.4.e(1) of this Article or who was restricted under subsection 1340.4.e(2) of this Article if the person in charge obtains approval from the Commissioner and the following condition is met:

- (1) The excluded [or restricted] food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a non-typhoidal *Salmonella* spp. or *Shigella* spp. infection based on test results showing 2 consecutive negative stool specimen cultures that are taken:
 - (a) Not earlier than 48 hours after discontinuance of antibiotics, and
 - (b) At least 24 hours apart;

(F) Reinstatement of a food employee who was excluded [or restricted] as specified under subsection 1340.4.a(2) or 1340.4.f(1) of this Article or who was restricted under subsection 1340.4.f(2) of this Article if the person in charge obtains approval from the Commissioner and the following condition is met:

- (1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from enterohemorrhagic or Shiga toxin-producing *Escherichia coli* based on test results that show 2 consecutive negative stool specimen cultures that are taken:
 - (a) Not earlier than 48 hours after discontinuance of antibiotics; and
 - (b) At least 24 hours apart;

(G) Reinstatement of a food employee who was excluded [or restricted] as specified under subsection 1340.4.g(1) or g(2) of this Article if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:



(1) has received antibiotic therapy for *Streptococcus pyogenes* infection for a minimum of 48 hours.

(H) Reinstate a food employee who was [restricted] excluded as specified under subsection 1340.4.h of this Article if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

(1) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;

(2) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or

(3) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

(I) Reinstate a food employee who was restricted as specified under subsection 1340.4.i of this Article and was exposed to one of the following pathogens as specified under subsection 1340.4.1.a(5) of this Article:

(1) **Norovirus** and one of the following conditions is met:

(a) More than [48] 72 hours have passed since the last day the food employee was potentially exposed; or

(b) More than [48] 72 hours have passed since the food employee's household contact became asymptomatic.

(2) **Shigella** spp. or enterohemorrhagic or Shiga toxin-producing *Escherichia coli* and one of the following conditions is met:

(a) More than 3 calendar days have passed since the last day the food employee was potentially exposed; or

(b) More than 3 calendar days have passed since the food employee's household contact became asymptomatic.

(3) **S. Typhi** and one of the following conditions is met:

(a) More than 14 calendar days have passed since the last day the food employee was potentially exposed; or

(b) More than 14 calendar days have passed since the food employee's household contact became asymptomatic.

(4) **Hepatitis A virus** and one of the following conditions is met:

(a) The food employee is immune to **Hepatitis A virus** infection because of a prior illness from **Hepatitis A**;

(b) The food employee is immune to **Hepatitis A virus** infection because of vaccination against **Hepatitis A**;

(c) The food employee is immune to **Hepatitis A virus** infection because of IgG administration;

(d) More than 30 calendar days have passed since the last day the food employee was potentially exposed; or

(e) More than 30 calendar days have passed since the food employee's household contact became jaundiced.

Contact the Bureau of Public Health Protection for further information.

