



COMPLIANCE CONSULTING  
GROUP, LLC

# Memorandum

April 1, 2020

*Please see below for Compliance Consulting Group's latest update as we continue to deal with the upheaval and uncertainty related to COVID-19.*

**Today's update is related to the FFCRA's notice requirements for nursing homes.**

Yesterday's update addressed the expanded definition of "Health Care Provider" under newly released guidance from the U.S. Department of Labor (DOL). Per the DOL, all individuals employed at, or contracted with, a nursing home or nursing facility are considered to be Health Care Providers. Pursuant to the FFCRA, nursing facilities may therefore elect to exclude its employees from the FFCRA-mandated sick, family, and medical leave requirements. Employers that so elect should immediately notify their staff of this decision in writing.<sup>1</sup>

The FFCRA requires employers to post a notice of employee rights in a conspicuous place on its premises. An employer may also satisfy the posting requirement by emailing or direct mailing this notice to employees or posting this notice on an employee information internal or external website. A copy of this notice is attached to this memo for your convenience.

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<sup>1</sup> Under the FFCRA, employers that provide paid leave to employees will be eligible for matching tax credits. Facilities located in New York State should note, however, that New York enacted its own law providing for employee job protection and financial compensation in the event that the employee, or his/her minor dependent child, are subject to a mandatory or precautionary order of quarantine or isolation issued by the state of New York, the Department of Health, local board of health, or any government entity duly authorized to issue such order due to COVID-19. New York State did not provide an exemption for Health Care Providers. Thus, facilities located in New York State will regardless be required to provide paid leave to employees. New York State facilities should therefore not elect to exclude their employees from the FFCRA as the paid leave cost can be offset by the tax credits from the federal government.