# Frequently Asked Questions: Long Term Care & COVID-19

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1. **The most important issue for our family is when can we visit our loved one. Do you have any news on that?**

We have continued to press high level state officials to clarify when visitation is allowed in long term care facilities, to permit outdoor visitation when it can be done safely, and to ensure residents on hospice and others who have special circumstances are able to have to have visitors as long as appropriate precautions are taken.

We understand the State is proceeding carefully to balance public health concerns with what they understand is the very real trauma some residents are experiencing because they cannot see their loved ones. We still don’t know when any guidance might be issued or if more liberal visitation will now be allowed under limited circumstances. We share your frustration about this issue and understand how important it is to residents and families.

As we have discussed, the Governor’s office is also reviewing a plan for the gradual reopening of congregate care settings that would allow increasing visitation over time, depending on what phase of a 3-phase plan the home is in. But we don’t know when that will be released or when it will go into effect.

1. **If visits are allowed in “compassionate care situations,” what is the definition of “compassionate care"?**

There is no formal definition of “compassionate care.” Yesterday, the federal government –CMS (the Centers for Medicare and Medicaid Services)--clarified that it uses the term in its recommendations to apply to more than end of life situations. CMS said it can apply in other situations as well when there is an especially compelling reason for a resident to have a visitor. For example, CMS suggested that a resident who has just been admitted to a nursing home and is having great difficulty adjusting or a resident who has suffered the loss of a friend or family member may qualify for a compassionate visit. But CMS noted that these visits should not be routine.

1. **Can the federal government now order the state to allow visitation in long term care facilities?**

The federal government—CMS-- has been very cautious about visitation. In the last few weeks, It has offered states guidance but states are permitted to proceed with visitation as they see fit based on the circumstances in the state. Also, CMS regulates nursing homes but does not regulate assisted living facilities. So even if it were to issue a directive about visitation, that mandate would only apply to nursing homes.

One piece of good news is that CMS is encouraging creative means of connecting residents and family members. It noted yesterday that there may be safe ways for families to see their loved ones outside the facility. It said facilities can create spaces for residents without COVID-19, including those who have fully recovered, to participate in *outdoor* visitation sessions with their loved ones, such as in courtyards, on patios, or even in parking lots.

CMS noted facilities should screen all visitors for symptoms and fever, ask both residents and visitors to wear a cloth face covering or face mask, perform hand hygiene, maintaining social distancing at all times, and ensuring the items in visitation spaces are cleaned and disinfected routinely. If outdoor visitation is allowed, it says that facilities should have a process to limit the number and size of visits that are occurring at the same time, limit the number of people visiting one resident, and ensure there is social distancing.

The CMS guidance is just a recommendation, though. The state will have to make its own decisions about what kind of visitation it will allow and when.

1. **If the state allows some kind of visitation, will it be allowed under any circumstances for residents who are COVID positive or visitors who are COVID positive?**

CMS’s guidance states that in-person visits should not take place for visitors who are under observation after being exposed to COVID-19, have symptoms consistent with COVID-19, or have been confirmed to have COVID-19. They also said that people who would like to visit the facility should not come if they have symptoms consistent with COVID-19 or have been confirmed to have COVID-19. But CMS did suggest that extra effort be made to keep residents connected in these situations through electronic communication or other safe means. Our office has worked hard to make sure residents who are COVID-positive are not forgotten when it comes to connecting with family because we understand that those residents may have among the greatest need to have contact with their loved ones.

1. **It is hard to wait for the State to act. Is there anything else we can do now to see our loved ones in long term care?**

We know that one family in Macomb County has filed for an injunction in court to get access to their loved one who lives in an assisted living facility and is enrolled in hospice. The court has not yet ruled on that case. Right now, we believe the court will look at Executive Order 108 when it makes its decision. That Order appears to permit visits to people on hospice, as well as in some other situations. Executive Order 108 is due to expire on June 26—Friday-- and we think the Governor will issue another one on or before Friday . It is possible the new Executive Order will include new language explaining when visits are possible in nursing homes and other long term care facilities.

1. **Are families, residents and advocates in other states doing anything to permit more liberal visitation with residents in long term care facilities?**

This issue is getting more and more attention across the country because long term care residents everywhere are suffering from being isolated and confined to their rooms. The media has been covering the issue. Michigan residents and families have been included in stories by National Public Radio and Bridge Magazine, a media outlet that is influential with policymakers in the state. California Advocates for Nursing Home Reform has launched a campaign called Visitation Saves Lives. They are asking families to post a picture or video on on Facebook, Twitter or Instagram on June 30 to explain why visitation is important and to share those stories with policy makers.. They are using the hashtag #VisitationSavesLives and have developed a social media tool kit. Michigan families could consider taking similar action to highlight the importance of visitation in our state.

1. **I see the state has added more data on the state Coronavirus website about cases and deaths of nursing home residents and staff from COVID-19. But I still don’t see any data on assisted living facilities. And if the state post any data about those facilities, will it only post information on adult foster care and homes for the aged or will it include unlicensed assisted living facilities as well?**

We have heard for a long time that the state is working to post information on other long term care facilities in addition to nursing homes. But we still have not gotten any details. We know it will be harder for the state to gather information on unlicensed assisted living facilities than licensed facilities because the state doesn’t even have a list of unlicensed homes. And we know, that the data system the state uses to collect information from nursing homes was not set up to accept information from other long term care facilities. We asked again today what the plan is to post information about other long term care facilities and will share information as soon as we have it.

1. **How can I tell if the state has cited my mother’s nursing home for serious violations since the COVID-crisis began?**

We have mentioned before that all of the surveys the state conducts on nursing homes are available on a public [website](https://spots_public.apps.lara.state.mi.us/#/) called “SPOTS.” The link to that is on our website and will be posted again on our website when we post the answer to tonight’s question.

In addition, our office has also been tracking the Immediate Jeopardy citations nursing homes have received since March 1. These citations arose in special surveys the state is doing of every nursing home to look at issues related to infection control and complaints about circumstances that may put residents in immediate danger. Our office gets a copy of the surveys when they are made public. We have created a [chart](https://docs.google.com/spreadsheets/d/1Xb6Uu-Lij5OfrO4wXJSMS0YElHckdA3THkS5PrsRbuc/edit#gid=0) of the homes that have been cited for the most serious violations. The chart includes information about the kind of violation the nursing home was cited for, the severity of the violation, how many staff and resident cases of COVID-19 the facility has, what its rating is on the federal government’s 5 star rating system, and other information. The link to the chart will be available on our website when we post the answers to these questions. We will continue to update the chart as we receive more surveys with Immediate Jeopardy citations. To date, we are aware of 29 nursing homes that have been cited for Immediate Jeopardy since the beginning of March.

1. **I heard the State Senate and House of Representatives passed a resolution condemning the way the state handled COVID-positive individuals wo needed nursing home care. Has the State changed how it handles these residents?**

The House and Senate did pass resolutions last Thursday criticizing the Governor’s policy of housing COVID-positive residents in nursing homes that also cared for COVID-negative residents. Everyone agrees that housing COVID-positive residents in separate facilities is the safest way to help prevent the spread of the disease. Unfortunately, the state did not have access to a lot of empty facilities that could have been rapidly equipped and staffed to care for residents with COVID-19.

The Governor determined that the next best strategy was to have nursing homes with lower occupancy rates create separate units for COVID-positive residents or applicants and to try to contain the virus in those separate units. Some nursing homes did a better job of this than others. But it is important to note that NO nursing home was forced by the state to take COVID-positive residents that it did not think it was capably of caring for safely. Each time a nursing home accepted a COVID-positive resident, it made the decision itself that it was capable of caring for the resident while protecting any other residents who did not have the virus.

1. **I saw a news report that there is a legislative proposal to create special COVID-only facilities now. Would it affect current residents of long term care homes who have or develop COVID-19?**

There is a bill, SB 956, that would require the state to create 8 COVID-only facilities across the state. It is not clear if it would apply to current nursing home residents who are or become COVID-positive or only to people who are seeking to be admitted to a nursing home. The bill has passed the Michigan Senate but would still have to pass the State House and be signed by the Governor before it is becomes law. The bill is very short and does not include much detail so we don’t know exactly how it would work or when it would go into effect if it does become law. We submitted testimony for a Senate hearing on the bill this week that raised a number of questions and concerns about the bill.