**Frequently Asked Questions About COVID-19**

**in Long Term Care Facilities**

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**Frequently Asked Questions About COVID-19**

**in Long Term Care Facilities**

# **Adult Foster Care, Home for Aged & Unlicensed Assisted Living Facilities**

1. **(May 20) What should happen if a resident of an adult foster care facility, home for the aged, or unlicensed assisted living develops COVID-19?**

These facilities may not have the ability to quarantine the resident who develops COVID-19 and protect other residents from acquiring the virus. Having that person stay in the facility may endanger other residents.  If the resident who develops COVID-19 is medically unstable, he or she should be sent to a hospital for treatment.  But if the resident is stable and does not need hospital care, we don't have a good answer for where that person should be transferred.  Currently, the regional hubs are not supposed to be accepting residents directly from an assisted living facility. A nursing home that is not a hub may accept the resident who is COVID-positive but we know that some nursing homes are not willing to accept people who have COVID-19  and the person may not need nursing home level of care.  We have been asking the state to clarify what its expectations are for residents in this situation and we will share that information when it is available.

1. **(May 27) Is there any data on COVID-19 in other types of long term care facilities aside from nursing homes?**

The state is not reporting that information now but hopes to be able to do so in the future. You can ask the facility if they have or have had any COVID-19 cases among residents and staff and what their protocol is if someone in the facility develops COVID-19. The local health department may also be able to tell you if they are aware of outbreaks in particular facilities. Long term care facilities other than nursing homes do not have to report information to the federal government.

1. **(June 10) My mom lives in an independent living facility. She has her own home just like I have my own home. Why should my mom face any more restrictions on her life and choices than I face in my home?**

This issue is part of the difficult balance between protecting people who may be at greater risk from the virus –such as those who live in independent living settings-- and respecting people’s choices and rights. We anticipate that when the Governor issues guidance on reopening different types of long term care settings, it is likely nursing home residents will face the greatest restrictions; homes for the aged, adult foster care, and assisted living facilities might have somewhat more relaxed requirements; and residents in independent living facilities will face the fewest restrictions. But when people talk about those different levels of care, they have to acknowledge that one assisted living setting might be intimate and home like where all the residents eat around one table while another setting could have more than 100 residents with multiple dining rooms, elevators, and a host of other issues. Making policy and rules for these very different settings can be very challenging.

1. **(June 10) My brother lives in a group home. He always participated in a day program but has not been allowed to go to it since March. He really misses it. When will he be allowed to leave the facility and participate in that activity again?**

We anticipate that people who live in group homes and participate in day programs or volunteer or paid work will eventually be permitted to return to those activities with appropriate safeguards like wearing a mask, maintaining social distancing, and being screened for symptoms. No one knows yet when these activities will be able to start again but we should know more when the Governor’s office finalizes the plans that are being developed now.

1. **(June 24) 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.

# **Advocacy for Residents**

1. **(May 27)** **We know that long term care facilities are getting attention across the country. Is there a national organization that is working on these issues and that provides information for family and residents?**

Yes. [The National Consumer Voice](https://theconsumervoice.org/home) (<https://theconsumervoice.org/>) advocates for quality long term care across all settings. Consumer Voice has excellent resources on its website for families and residents on issues including resident rights, family councils, and important policy issues. It also has extensive information on COVID-19 which is updated frequently and includes very practical information as well as opportunities to try to influence national law and policy.

You can [sign up](https://secure2.convio.net/tncv/site/SSurvey?SURVEY_ID=1500&ACTION_REQUIRED=URI_ACTION_USER_REQUESTS) for free emails from Consumer Voice including their weekly newsletter and action and policy alerts. If you want to [join](https://theconsumervoice.org/about/membership) this terrific and important organization, membership is free for individuals who receive long term services and is very inexpensive for other individual members.

1. **(May 27) I want to get more involved in my mother’s nursing home but I don’t think they have a family council or, if they do, it may not be meeting now. Is it possible to try to form or maintain a family council now?**

Yes. We have a fact sheet on our website about [family councils](https://mltcop.org/sites/default/files/2018-11/Family%20Councils%20fact%20sheet%20Proof%2010-24-18.pdf).

Federal law states that a nursing home has to provide private space in the home for resident or family groups to meet and take reasonable steps to make residents and families aware of upcoming meetings. Since family councils cannot meet in person in nursing homes right now, we think homes should assist in making meetings possible through Zoom or other platforms. The nursing home is required to provide a designated staff person who is approved by the resident or family group to help the group and respond to written requests. Staff can attend the meetings only if they are invited by the group.

To form or maintain a family council, contact the nursing home and ask who the designated staff person is. You can work with that person to notify residents and families. If you run into problems, contact your local ombudsmen who may be able to help. While there is no requirement in law that other long term care facilities like homes for the aged have family councils, families can ask those facilities if they will assist in advertising remote meetings that families may wish to hold.

1. **(June 10) Are other states facing the same issues we are?**

Yes. Long term care consumers in virtually every state have been hit hard by COVID-19. Advocates and families everywhere are struggling to find the right balance now between protecting residents from the virus and ensuring that they have some quality of life and are not harmed in other ways from our efforts to protect them. There is no right answer. No one wants to be reckless about exposing residents to unnecessary risk or indifferent to the suffering all the restrictions have caused residents and families.

1. **(June 17) Are there any upcoming events for family members of residents?**

Yes! As we mentioned last week, the National Consumer Voice for Quality Long Term Care is sponsoring a webinar tomorrow, June 18 at 2 pm ET. This webinar will provide information and tips on how to family members can advocate for quality care individually and through family councils.  The webinar will also cover topics of particular concern to family members, including visitation, facility transparency and reporting requirements, transfers and discharges, COVID-19 testing and more.  You can register for the webinar on the Consumer Voice website (theconsumervoice.org).

# **Caring for Residents While Managing the COVID-19 Crisis**

1. **(May 6) How can families be sure about the care that residents are getting during this time if visitors are not allowed in long term care facilities and staffing might also be reduced due to staff coming down with the disease themselves?**

Local ombudsmen continue to engage with residents and families who have concerns about care during the pandemic. Ombudsmen respond to those concerns by reaching out to long term care facilities where they often have long-standing relationships with administrators, directors of nursing, social workers, or other key staff to ask questions about care or staffing concerns.

In addition, the state’s survey agency , the Department of Licensing and Regulatory Affairs (LARA), is continuing to monitor nursing homes for adequate infection control prevention and reports of abuse and neglect or serious care or staffing issues during this time. If there are concerns about staffing, care, or infection prevention, file a complaint with LARA by calling 1-800-882-6006 or [online at through LARA website](https://www.michigan.gov/lara/0%2C4601%2C7-154-89334_63294_72973---%2C00.html).

1. **(May 27) Does a nursing home have to create a dedicated unit for COVID-19 residents?**

Executive Order 2020-95 states that a nursing home must make all reasonable efforts to create a unit dedicated to the care and isolation of COVID-19 affected residents. If a nursing home has a dedicated unit, it must provide appropriate PPE to the employees in the unit who care for residents. The Executive Order states that a nursing home should not create a dedicated unit unless it can implement effective and reliable infection control procedures.

1. **(May 27) Does Executive Order 2020-95 change the protocol for how a nursing home or other long term care facility should handle a COVID-19 affected resident who is medically stable?**

The Executive Order does change the protocol a little. It states that if the home has a dedicated unit for COVID-19 residents, it must move the resident to that unit. If the home does not have a dedicated unit, it must attempt to transfer the resident to a regional hub—those nursing homes the state has designated to accept COVID-19 residents, an alternate care facility (like a convention center) with the capacity to care for the resident, or a swing bed at the hospital. Swing beds are beds in hospitals that can be used as either a hospital bed for patients who need acute care or a nursing home bed. If none of those options are available, the long-term care facility must attempt to send the resident to a hospital with an available bed. We are seeking clarification from the state if the MDHHS directive related to hubs which allows only nursing homes to send stable COVID affected residents to Hubs and not AFC, HFA or unlicensed facilities is still in effect as we have not seen a notice that this has been rescinded.

1. **(May 27) What should I do if I think my husband is not getting the proper level of care and services described in the Executive Order?**

Executive Order 2020-95 states that the Department of Licensing and Regulatory Affairs (LARA) is authorized to take action to assure individuals receive the proper level of care and services under this order. While LARA does license and regulate nursing homes, adult foster care, and homes for the aged, it does not regulate unlicensed assisted living facilities. For that reason, although the order states that LARA is authorized to take action, we do not know if they will become involved if issues arise in an unlicensed facility. In addition, because LARA has been directed by the federal government to focus in nursing homes only on infection control and concerns that create immediate jeopardy for residents, we do not know if LARA will take action on all issues concerning residents receiving proper care and services under this order.

1. **(June 3) What happens when the basic standard of care is not being met in a nursing home?**

Normally, you could file a complaint with the Michigan Department of Licensing and Regulatory Affairs, the state survey agency. LARA would investigate the complaint and, if it thought that the nursing home had failed to comply with any regulatory requirements, it could cite the facility. LARA can impose fines and take other actions for serious violations. However, as we have mentioned before, during the crisis, the federal government has told state survey agencies to focus only on issues related to infection control and complaints that seem to rise to the level of immediate jeopardy for residents, the highest level of citation. We do not know what will happen to complaints that are filed now if LARA does not categorize them as potentially causing immediate jeopardy. We encourage families and residents to emphasize, when it is accurate, that the issue they are raising is extremely serious and must be investigated promptly to prevent real harm to residents. As nursing homes move toward reopening, LARA will start investigating all complaints again.

1. **(June 10) I keep hearing that the Governor made a big mistake by forcing nursing homes to take COVID-positive residents which ended up resulting in COVID-negative residents being infected with the virus. Is that true?**

No. There is a widespread misunderstanding on this issue. The state did ***not*** require nursing homes to take COVID-positive residents at any time. A number of nursing homes chose to admit COVID positive residents or to re-admit positive residents after a hospital stay. But the state’s position was that nursing homes should only do so if they had the ability to take care of them safely. The final decision whether to admit a resident or not was always the nursing home’s, not the state’s.

1. **(June 10) I have heard there are proposals to create COVID-only facilities across the state. Doesn’t that make more sense than mixing COVID-positive and negative residents?**

To best protect residents from the spread of infection, it would make the most sense to keep residents with COVID-19 in separate buildings. But we are not aware of enough buildings that could be made immediately available for that purpose and do not know, given the staffing shortage, how those buildings could be staffed. In addition, if many residents had to be relocated to different buildings, that could be traumatic for the residents and negatively affect their health as well. Like everything related to the virus, there are trade-offs between promoting safety and reducing trauma.

1. **(June 10) Can nursing homes provide care safely if they house residents who are COVID-positive in a separate unit from residents who are COVID-negative?**

We think residents have a better chance of staying safe if homes that have a mix of COVID-positive and COVID-negative residents faithfully engage in a number of best practices:

* + - Creating physically separate units for COVID-positive and COVID-negative residents like a separate floor or wing. (It is also recommended that a facility create a third area for residents with unknown COVID status.)
		- Ensuring separate staff are always assigned to the COVID-positive or the COVID-negative unit but do not cross over between the two
		- Using a separate entrance, elevators, equipment and facilities for residents and staff in the COVID-positive and COVID-negative units
		- Engaging in scrupulous hand washing or hand hygiene, appropriate use of PPE, and other standard infection control practices
		- Participating in frequent testing of staff and residents, as necessary, to ensure residents are housed in the appropriate part of the facility depending on their COVID-positive or negative status.
1. **(July 1) What is trauma-informed care?**

The federal regulations state the nursing home must ensure that residents who are trauma survivors receive culturally competent, trauma-informed care in accordance with professional standards of practice and accounting for residents’ experiences and preferences in order to eliminate or mitigate triggers that may cause re-traumatization of the resident. This regulation was implemented in November of 2019.

Trauma related to the changes in the residents’ everyday lives, including isolation and fear, is real. If you feel your resident is experiencing trauma in the nursing home, please reach out to the social worker. Ask the staff to work with the resident to help create a care plan that addresses trauma and how to reduce the potential for trauma to reoccur. At the direction of the resident, you can ask for a care conference to review the care plan.

# **Disclosure of COVID-19 in Nursing Homes**

1. **(May 6) If a resident tests positive for COVID-19 in a long term care facility and is medically stable, where will the resident receive care and could the resident be moved to another facility?**

If the long term care facility has a dedicated unit for COVID positive residents, has appropriate personal protective equipment (PPE) for the staff, and can provide the care needed by the resident, the resident will be moved to the COVID unit within the facility.

If not, the nursing home must transfer the COVID positive resident to a Regional COVID-19 Hub if one is available to accept the resident. If a bed in a Regional COVID-19 Hub is not available, the facility must attempt to send the resident to a to a hospital within the state that has available bed capacity.

1. **(May 6) If a resident tests positive for COVID-19 in a long term care facility and is medically unstable, what happens to that resident?**

The resident must be transferred to a hospital for evaluation unless the resident has stated in their advance directives that they don’t wish to receive this level of care.

Once a resident becomes stable at the hospital, the hospital must transfer the resident back to the original facility if that facility has a dedicated COVID unit and appropriate PPE and has an open bed.

If the original facility does not have a dedicated COVID unit, appropriate PPE or an available bed, the resident must be transferred to a Regional COVID-19 Hub.

1. **(May 6) Is a nursing home required to provide a private room to any resident that tests positive for COVID-19?**

No. A resident who tests positive would ideally be placed in a private room but could also be placed in the same room with another COVID positive resident. The CDC recommends that a consistent staffing team be assigned to COVID positive residents to reduce exposure as much as possible. Staff should use PPE whenever in contact with COVID positive residents and COVID positive residents should wear masks if possible.

1. **(May 6) What should happen to the roommate of a resident who tests positive for COVID-19?**

Roommates who are exposed to a COVID positive resident, but don’t show signs of COVID should remain quarantined for 14 days before they are placed with a person who has not been affected by COVID and is presumed to be negative. If the roommate develops symptoms, they should stay in a COVID positive unit until they are asymptomatic for at least 14 days.

1. **(May 6) Do nursing homes have to tell residents and their families about the positive COVID-19 cases in the home?**

Yes. The federal government is requiring nursing homes to inform residents, their representatives, and families by 5 p.m. the next calendar day if there is a confirmed positive case, or three or more residents or staff have a new-onset of respiratory symptoms that occur within 72 hours of each other.

Also, a summary update of cases must be provided to all residents, their representatives, and families at least weekly. No individual resident or staff will be identified in these updates. Nursing homes must also indicate the steps they are taking to prevent or reduce the risk of spreading the disease, including if normal operations in the nursing home will be changed.

1. **(May 13) Will residents and family members be told if there is a positive COVID-19 case in the nursing home?**

The federal government will soon require nursing homes to tell residents and families when the nursing home has a resident or staff member suspected or confirmed to have COVID-19. The nursing home is required to give updates as well to residents and families. Some nursing homes are already sharing COVID-19 information with residents and families through phone calls, newsletters, or the nursing home’s website.

# **Government Involvement/Oversight**

1. **(May 20) Is LARA identifying serious problems in nursing homes when it does its inspections?**

Yes, LARA has identified some very serious infection control problems in some nursing homes. Their reports are available to the public and we will provide the link to those reports in our written answers which we will share on our website.  When LARA finds a serious issue, it writes it up in detail and requires the nursing home to come up with a plan to fix whatever is wrong. If the surveyors find there is immediate jeopardy to residents, they do not leave the building until the nursing home has started to address the issues.

1. **(May 27) Is the state visiting every long term care facility to observe how it is managing in this crisis?**

We understand LARA is visiting every nursing home to look at infection control practices. When we last heard, they had visited about 2/3 of all nursing homes. We have not received confirmation of how or if LARA is monitoring homes for the aged or adult foster care homes other than following up on complaints. They are not visiting unlicensed assisted living facilities.

1. **(May 27) Is the state legislature concerned about what is happening in long term care facilities?**

Yes. The Senate has been holding weekly oversight committee hearings and Salli testified at a hearing this afternoon. In addition, at least two legislators are introducing legislation related to the crisis in nursing homes but we don’t know if those legislative proposals or others will pass and be signed into law by the Governor.

1. **(May 27) Is LARA the only agency at the state that is working on issues related to long-term care facilities?**

No, the state is coordinating its response to the crisis in long term care facilities between LARA and the Medicaid and public health staff of the Department of Health and Human Services. In addition, state officials are working closely with local public health officials, regional healthcare coalitions and are in close touch with the Governor’s Office. In certain circumstances, such as if a facility violates the law and causes serious harm or the threat of serious harm to residents, the Department of the Attorney General might also get involved.

1. **(June 3) How can I tell if my Dad’s facility is licensed or not?**

The only way to know for sure is to look it up on LARA’s website: <https://adultfostercare.apps.lara.state.mi.us/> or you can google “Look up a licensed AFC/HFA”. Nursing homes that participate with Medicare and Medicaid are listed on the federal Nursing Home Compare website: <https://www.medicare.gov/nursinghomecompare/search.html>. A few nursing homes in Michigan do not participate and will not be listed there. You can contact our office if you have a question about licensure.

1. **(June 3) Is LARA going to *every* nursing home to look at infection control and concerns about residents being in immediate jeopardy even if there is no complaint filed about that nursing home?**

Yes. We understand that LARA has already visited more than 80% of the nursing homes. The federal government is requiring LARA to visit all the nursing homes in the state by July 31.

1. **(June 3) Has LARA found serious problems at any nursing homes?**

Yes. Approximately 20 nursing homes have been cited for putting residents in Immediate Jeopardy, the highest level of citation. The good news is that in more than 300 of the nursing homes that have already been inspected, LARA did not find residents were in immediate jeopardy. The homes cited for these most serious problems are a small fraction of the total number of homes that LARA has already inspected.

When LARA makes an Immediate Jeopardy finding, it does not leave the nursing home until whatever situation put the resident or residents in jeopardy has been at least partially resolved. The nursing home must also write a plan of correction. LARA should follow up to make sure the nursing home has corrected the problem and can impose various penalties. In addition, both the Michigan Peer Review Organization, Michigan’s Quality Improvement Organization, and teams of infection control specialists are working with nursing homes that have been identified as needing extra help with infection control issues.

1. **(June 3) What happens after LARA has surveyed all nursing homes?**

The federal government is giving states additional money to target nursing homes that may need more careful oversight. LARA and other state survey agencies will be required to perform on-site surveys of nursing homes with previous COVID-19 outbreaks as well as on-site surveys of any nursing home with new COVID-19 suspected and confirmed cases. The on-site surveys have to be performed within 3-5 days of when the new case is suspected or confirmed.

1. **(June 3) Where can I find out if my mom’s nursing home has an Immediate Jeopardy citation?**

The surveys, which are very detailed and can be lengthy, are posted on SPOTS Public Portal: <https://spots_public.apps.lara.state.mi.us/#/publicsearch>

It can be a little cumbersome to use but ombudsmen can help you navigate that website. Eventually, a summary of the survey will be posted on the federal [Nursing Home Compare website](https://www.medicare.gov/nursinghomecompare/search.html) (<https://www.medicare.gov/nursinghomecompare/search.html>) but this might not happen for quite a while.

1. **(June 10) I heard that some states have granted nursing homes immunity for negligent care during the crisis. Has Michigan done that?**

Yes. Nursing homes and other health care providers across the country have argued that they need immunity to protect themselves during the COVID crisis. They state that the pandemic is an unprecedented event and many issues that led to harm to residents or patients were beyond their control. In late April, Governor Whitmer signed Executive Order 2020-30 which applies to any licensed health care professional or health care facility that provides medical services in support of this state’s response to the COVID-19 pandemic. The Executive Order states that these providers and facilities are not liable for injuries a person receiving medical services suffers unless the provider or facility committed “gross negligence.” That is a more difficult standard to prove in court than is normally required. As a result, it would be harder to win a case against a nursing home, home for the aged, hospital, hospice, or other health care facility for harm a person suffered during the crisis. The Governor’s Executive Order will remain in effect until the end of the emergency.

1. **(June 24) 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. **(June 24) 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. **(July 22) I understand the state was required to do infection control surveys at every nursing home. Have they completed those? How can I find out what the results were at my mom’s home?**

Yes. The Department of Licensing and Regulatory Affairs (LARA) was required by the federal government to do surveys (inspections) at every nursing home in the state that participates in Medicaid and Medicare. We understand that as of June 19, LARA completed 439 infection control inspections and all the nursing homes in Michigan that participate in Medicaid and/or Medicare. Those surveys are public records and are available on the SPOTS website we have mentioned before. But there is a lag time between when the surveys are completed and when they are posted on the public website.

1. **(July 22) We heard that your office was sending the surveys that showed serious infection control problems to the legislators and local officials in whose communities those facilities are located. Is that right? What kind of response did you get?**

Yes. We have been sending the surveys that found residents were in Immediate Jeopardy to the State Representative and State Senator in whose districts those facilities are located and to the mayor or local authority. Immediate Jeopardy citations are the highest level of citation a facility can receive. We think public officials should have easy access to public documents and think most elected officials would want to know if their constituents who live in those facilities have been determined to be in Immediate Jeopardy. We have gotten a good response from elected officials who have frequently followed up with us or with the nursing home to find out how things are going at that home now. The elected officials seemed both genuinely concerned and curious to learn more about how the inspection process works and what happens after a facility receives an Immediate Jeopardy citation.

1. **(July 22) What does happen after a facility receives one or more Immediate Jeopardy cites?**

If surveyors think there is Immediate Jeopardy, they cannot leave the building until the facility has fixed whatever caused the immediate concern. That does not mean that everything is perfectly resolved, but it does mean that the surveyors feel the most critical and worrisome aspect of the problem has been addressed. Nursing homes then must submit a plan of correction to the state for its approval. For all serious citations, the state is supposed to go back to the nursing home to verify that it has corrected the problem. If it is a less serious citation, the state can do a “desk review” where they review documentation and other information the nursing home has submitted at LARA’s office to see if they think the nursing home has resolved the problem.

1. **(July 22) We heard that the surveyors sat out in the parking lot of the facilities but did not enter the facility. How can they know what is going on if they don’t go inside?**

LARA answered this question today at a legislative hearing. They explained that in the very beginning of the pandemic, they did not have enough PPE (personal protective equipment) to go into the nursing homes safely. So, they worked from the parking lot outside the nursing homes. After about a week, they said they did obtain the necessary PPE and started conducting surveys in the facility.

1. **(July 22) I heard they were not talking to residents inside the facilities, just to nursing home staff. How could they know what was really going on?**

LARA testified today that they did talk to residents, as they always did before the pandemic, when they went into nursing homes to conduct the infection control surveys. They also reviewed records and documents, observed staff, and used other tools to assess whether the nursing homes were meeting all the requirements and keeping residents safe.

1. **(July 22) So how many facilities ended up getting Immediate Jeopardy citations after all these inspections were complete?**

There were about 30 facilities that received at least one Immediate Jeopardy citation. Some received multiple Immediate Jeopardy citations or an Immediate Jeopardy citation and some other less serious citations as well. Most of the Immediate Jeopardy citations pertain to infection control but the State did find some other serious violations.

1. **(July 22) What happened the nursing homes in the state that don’t participate in Medicaid and Medicare?**

There are just a few nursing homes that do not participate in Medicaid or Medicare but are licensed by the state. At the legislative hearing today, the State testified that the state received extra funding from the federal government to hire more surveyors (inspectors) temporarily and would also be checking up on the facilities that don’t participate in Medicaid or Medicare.

1. **(July 22) What kind of inspections are happening in licensed and unlicensed assisted living facilities?**

There are no inspections in unlicensed assisted living facilities (except for things like the fire code) because the facilities are not regulated by the state. We know there have been efforts by the state to track what is happening in the homes for the aged and adult foster care homes but the inspections are not as rigorous and the whole system of inspecting and sanctioning homes is much more limited. The reports the state issues when it finds problems with adult foster care facilities or homes for the aged are available on a state website but it is a different website than the SPOTS website where you can check nursing home surveys.

1. **(July 22) I heard there was a new Task Force appointed by the Governor. Has that started to meet and will it look at issues concerning assisted living, too?**

That new Task Force is being “launched” this week and the first meeting is tomorrow. We (Alison and Salli) are honored to serve on it. But unfortunately, it only applies to nursing homes, not to adult foster care, homes for the aged or unlicensed assisted living facilities.

1. **(July 29) Are there any updated Executive Orders impacting long term care residents?**

Yes. Governor Whitmer signed [Executive Order 2020-156](https://www.michigan.gov/whitmer/0%2C9309%2C7-387-90499_90705-535096--%2C00.html) on July 23rd. This order continues the temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities. This replaces EO 2020-136 and is in effect until August 31, 2020. This order outlines the same visitation restrictions and requirements as the previous order.

1. **(July 29) Is the MDHHS Epidemic Order issued on June 30th still effective?**

The [MDHHS Epidemic Order](https://www.michigan.gov/documents/coronavirus/MDHHS_Epidemic_order_-_nursing_home_visitation_695378_7.pdf) released on June 30th remains in effective until such time it is rescinded. This order allows for residents to have visitors under limited circumstances including:

* Residents enrolled in Hospice
* Resident receiving end of life care but not enrolled in Hospice
* Residents who have had a serious decline and could benefit from ADL support from a visitor
* Residents whose wellbeing is at significant risk, based on the clinical judgment of a treating medical professional, where family visits are a potentially effective intervention
* Residents who experience a significant adverse change of condition
1. **(July 29) Can you remind us of the facilities the MDHHS order covers?**

The order issued on June 30th applies to a wide array of licensed and unlicensed long term care facilities. It applies to:

* homes for the aged
* nursing homes
* adult foster care facilities
* hospice facilities
* substance abuse disorder residential facilities
* independent living facilities, and
* assisted living facilities

# **Isolation/Quarantine**

1. **(May 6) How long will residents be confined to their rooms and not be allowed to have in-person visits?**

It is difficult to know how long these precautions will be in place. As COVID-19 testing becomes more widely available, nursing homes may have a better sense of who is positive and who is negative which could lead to less isolation for residents. Also, as more residents are separated into COVID-19 Units and Region COVID-19 Hub facilities due to testing, there might be a way to better isolate those who are positive and allow those who are negative to have more movement within a home.

These decisions will be made by state public health officials, in consultation with other state agencies. The current Executive Order prohibits entry into long-term care facilities until at least May 31st. The federal government also prohibits visitors, so both federal and state guidance would need to be modified before visits to nursing homes can resume.

1. **(May 6) When can COVID positive residents, who remain in the nursing home’s COVID unit, return to a regular unit with other COVID negative residents?**

Per current CDC guidance, residents should stay in a COVID positive unit until they are asymptomatic for at least 14 days. COVD positive residents should not be moved back into a room with COVID negative residents until they are quarantined for 14 days and do not develop any symptoms.

1. **(May 13) Why are residents being confined to their rooms if they don’t have signs of COVID-19?**

In an effort to control the spread of COVID-19, nursing homes are not allowed to hold group activities or serve meals in the dining room. Social distancing in the nursing home requires residents to stay in their rooms except for very limited medical care needs.

1. **(June 3) Can a resident go outside?**

We understand from LARA, the Department of Licensing and Regulatory Affairs, that nursing home residents can go outside to get some fresh air. The nursing home should use all necessary precautions, such as maintaining social distancing, when the residents are outside. We think the same is true of people in homes for the aged and adult foster care.

1. **(June 3) If residents can go outside, can they visit with families or others while they are outside the building?**

We have asked that question but have not received an answer yet. LARA told us it is checking with the federal government for an answer to that question for nursing homes. We will share that information as soon as we get it. Remember that window visits are allowed.

1. **(July 22) My mom’s assisted living facility is so strict about whether she can leave the facility and she must go into quarantine when she comes back. But my mother-in-law is in a facility that lets her go out to the community when she wants or has a doctor’s appointment and she doesn’t have to go into quarantine when she comes back. I don’t understand why the rules are different in two facilities that look pretty much the same?**

The Governor’s Executive Orders and the MDHHS Order from Robert Gordon do not address residents leaving the facility for short outings. And different facilities do handle that issue differently. An ombudsman can help you try to negotiate with the facility if it is a nursing home, adult foster care facility, or home for the aged. Ombudsmen do not have authority or funding to assist people who live in unlicensed assisted living but other staff in our office might still be able to help. You can call 517-827-8010 and we will try to sort out who can best help you.

# **Long Term Care Ombudsman Program (MLTCOP)**

1. **(May 13) Can the Ombudsman confirm if there is a COVID-19 case in my nursing home?**

The ombudsman can check the state’s website to see if the nursing home reported COVID-19 cases and the day that information was reported to the state. Ombudsman cannot confirm the absence of COVID-19 in any nursing home but can share if the ombudsman is aware of a potential or confirmed case based on the information made available to us.

1. **(May 13) Why aren’t local ombudsmen visiting residents?**

On March 13, the State Long Term Care Ombudsman made the difficult decision to suspend ombudsman visits to all licensed settings to avoid the risk of spreading the virus between residents and between facilities. Since that time, the federal government also banned visitors to nursing homes, including long term care ombudsmen.

1. **(May 13) Can people still contact the local ombudsman for help?**

Yes, long term care ombudsmen can be contacted by phone or email to help residents and families with their concerns. Ombudsman must provide advocacy services to residents even with the visiting restrictions in place. Nursing home providers are to help residents contact the ombudsman program by making a phone available to residents. You can reach the local ombudsman can calling 866-485-9393. All services are free and confidential.

# **Medicaid Flexibilities and Policies/Financial Matters**

1. **(May 6) Can residents be discharged from a nursing home for no longer meeting the Medicaid Level of Care Determination?**

First, let me explain that the Level of Care Determination is an assessment completed by a provider to determine if a person is functionally eligible for Medicaid covered nursing home level of care services. The tools look at many domains of a person’s needs including item like personal care assistance, memory and recall, and nursing services.

On May 1, the State Medicaid agency released letter to providers (L-20-19) giving guidance on the Medicaid Level of Care Determinations (LOCDs) during the COVID-19 emergency. All LOCDs with an end date between March 1, 2020 and April 30, 2020 have been extended by 180 days. LOCDs with end dates between May 1, 2020 and June 30, 2020 have been extended by 120 days. Providers do not need to take any action as the dates will automatically be adjusted by the State. Providers should not conduct LOCDs during this timeframe if there is an existing eligible LOCD in the States’ system (CHAMPS) for the beneficiary.

1. **(May 6) Will the stimulus check affect my Medicaid status?**

Stimulus checks will not affect a residents’ Medicaid eligibility status as it is not counted as income. Residents have 12 months to spend the stimulus money without it counting as an asset for Medicaid eligibility.

1. **(May 6) Do I need to file a tax return to get a stimulus check?**

The Treasury Department has confirmed that people who receive certain public benefits, like social security, will not have to file a tax return to receive the stimulus check.

1. **(May 13) What will happen when the Medicaid redetermination is due while a resident is at a different nursing home or the hospital?**

Medicaid cases will not be closed during the COVID-19 emergency. The state will continue Medicaid benefits until the first of the month following the end of the state of emergency.

1. **(May 13) Does a resident pay the monthly Patient Pay Amount to the new nursing home?**

If a resident moves to another nursing home and already paid the patient pay amount to the original nursing home, the resident does not have to make a payment to the new nursing home until the first of the next month. A resident only pays the Patient Pay Amount (PPA) once a month. The ombudsman can help with questions or concerns about the PPA or if the residents is being asked to pay it twice in one month.

# **Personal Protective Equipment (PPE)**

1. **(May 6) Do residents have to wear masks while they are in their room?**

When possible, all long-term care facility residents, whether they have COVID-19 symptoms or not, should cover their nose and mouth when staff are in their rooms. They could use cloth, non-medical masks, like a homemade mask when those are available. According to federal guidance, residents should not use medical grade facemasks, like an N95 mask, unless they are COVID-19-positive or assumed to be COVID-19-positive as these are in limited supply and are needed for healthcare workers.

1. **(May 13) Why don’t all the staff wear masks and gowns?**

The use of masks, gowns and gloves in a nursing home does not always mean there is an active COVID-19 case, as personal protection equipment (called PPE) is used to reduce the risk of spreading the COVID-19 virus. Nursing homes are to follow the guidance from the Centers for Disease Control and Prevention (CDC) on the use of PPE when it is available. We know some nursing homes are in need of more PPE.

1. **(May 20) Do licensed and unlicensed assisted living facilities have enough PPE, tests, and staff to keep residents safe?**

The answer varies depending on the facility.  We do know that facilities that need more resources should first contact their local health department and that some health departments are proactively reaching out to these homes.  Some homes are also getting a lot of support from both their corporate offices and the two trade groups that represent those facilities.  Finally, we understand LARA is continuing to inspect adult foster care facilities and homes for the aged.  If you have concerns that an adult foster care facility or home for the aged is not adequately protecting residents, you can file a complaint with LARA.  And you can share concerns about any facility with the local health department.

# **Regional COVID-19 Hubs**

1. **(May 6) Can you remind us what is a Regional COVID-19 Hub?**

Regional COVID-19 Hub is an entire nursing home or unit in a nursing home designated by the state to care for people with COVID-19 needs. The hub must have adequate PPE for staff and residents, have dedicated staff to only care for residents with COVID-19, and have strong infection prevention and control practices in place. When only a unit within a nursing home is designated, the COVID-19 unit must have a separate entrance for residents and staff.

1. **(June 3) Once testing has been done at all long-term care facilities, there may be more people like my grandmother, who are diagnosed with COVID-19 and who cannot stay in their current homes. Even if they are allowed to go to the Regional Hubs, is there enough capacity in those facilities to accommodate everyone who might test positive?**

When we last heard, the Hubs had about 400 open beds. Not everyone who tests positive will need to be transferred to a Hub or a hospital, though, because many nursing homes do have dedicated COVID units, sufficient staffing and PPE, and the ability to care for more residents with COVID-19. We anticipate that people who test positive will be cared for in a variety of settings including the hubs, hospitals, hospital swing beds, and nursing homes with dedicated units.

1. **(July 22) We know the state used a model where nursing homes that served as hubs could accept COVID-positive residents from nursing homes or hospitals. What has happened to the hubs? Are we going to keep using them? Or do we think they were the wrong strategy to safeguard residents?**

At the height of the outbreak in nursing homes, the state had identified 21 hub facilities. Now they have decommissioned several of them and some that are still identified as hubs have reduced the number of beds in their COVID-positive unit because demand for those beds has, thankfully, declined. If numbers of cases start going up again, those hubs may be brought back online. But the state is not sure if relying on hubs was the best strategy. They have asked Michigan State University and a well-regarded health policy think tank to study the hub experience and recommend what went right, what went wrong, and if it makes sense to continue to use hubs.

1. **(July 29) What is the status of COVID Hub facilities in Michigan? What about Senate Bill 956?**

We understand that a number of the facilities designated by MDHHS to serve as Region COVID Hubs have been decommissioned. This is due the reduced need for these beds, which is a good sign for COVID recovery.

[Senate Bill 956](http://www.legislature.mi.gov/%28S%28mct103nfvs1lx324j4qcn2xk%29%29/mileg.aspx?page=GetObject&objectname=2020-SB-0956) (2020) passed both the Senate and the House and was sent to the Governor today. We don’t know if the Governor will sign the legislation into law or veto this piece of legislation.

Executive Order 2020-135 creates the bipartisan Michigan Nursing Homes COVID-19 Preparedness Task Force within the Michigan Department of Health and Human Services (DHHS). The Governor’s staff have indicated that placement of COVID positive residents will be addressed by this task force.

# **Re-Opening Nursing Homes to Visitors/Phases**

1. **(May 20) Can you tell us about the newly released guidance from CMS to states about creating a reopening plan for nursing homes?**

The Centers for Medicare and Medicaid Services released [QSO 20-30 NH](https://www.cms.gov/files/document/qso-20-30-nh.pdf) on Monday to state officials. The document provides states with guidance on how to develop a safe reopening plan for nursing homes. It addresses how to determine when to relax restrictions that nursing homes have put in place and how to prevent cases from reoccurring, how visiting and services should resume over time, and how state survey agencies should expand their work as things improve. The document outlines three phases for the nursing home re-opening plan.

1. **(May 20) Do states have to implement these recommendations the same for all nursing homes within the state?**

No. A state can decide to have all nursing homes go through each phase at the same time, or can allow certain counties to enter a phase at the same time, or a state can allow individual nursing homes to go through the phases as they meet certain milestones for entering a particular phase.

1. **(May 20) Who should decide when nursing homes should move into the next phase?**

State and local leaders including health department officials, in consultation with nursing homes will make these decisions.

1. **(May 20) What factors should the state consider in developing its reopening plan?**

CMS recommends the state consider several factors, including:

* Case status in the surrounding community
* Case status in the nursing home(s)
* Staffing levels
* Access to adequate testing for residents and staff
* Personal Protective Equipment supplies
* Local hospital capacity
1. **(May 20) How does the Reopening Nursing Home Plan differ from the Opening Up America Plan provided by the Administration?**

There are additional requirements in the Reopening Nursing Home Plan. Everyone in a nursing home must be given a baseline COVID test and appropriate actions must be taken based on the results before a nursing home is allowed to move through the phases. States should survey nursing homes that experienced a significant COVID outbreak to make ensure the nursing homes are preventing transmission. A nursing home’s opening should lag behind the general community’s opening by 14 days.

1. **(May 20) What limits would be in place for residents in Phase 1?**

COVID positive residents will continued to be isolated as they are now. COVID negative residents may be allowed to eat in the dining room with social distancing (limited tables spaced apart and limited number of people). Group activities should be restricted but some activities can be conducted with appropriate social distancing, face masks and hand hygiene, similar to dining.

Non-medical trips outside the nursing home should be avoided. For any trips away from the nursing home, the resident must wear a mask and the resident’s status must be shared with the transportation company and individuals at the destination.

When individuals enter the nursing home, 100% of them must be screened, as well as all staff at the beginning of their shift.

1. **(May 20) When will visitors be allowed in nursing homes?**

Continuing to restrict visitation is understandably challenging for residents and their families and friends, but it is necessary in order to protect residents from possible transmission of the virus. Per the guidance, nursing homes should continue to restrict visitation in general based upon the following recommended guidelines:

**Phase One and Two**: Visitation is generally prohibited, except for compassionate care situations. In those limited situations, visitors are screened, and additional precautions are taken, including social distancing, and hand hygiene (e.g., use alcohol-based hand rub upon entry). All visitors wear a cloth face covering or facemask for the duration of their visit.

**Phase Three**: Visitation is allowed with screening and additional precautions including ensuring social distancing and hand hygiene (e.g., use alcohol-based hand rub upon entry). All visitors must a cloth face covering or facemask for the duration of their visit.

1. **(May 20) When will health care professional visitation change?**

Starting in Phase Two, a **limited** number of **non-essential healthcare professionals** will be allowed in the building, with appropriate screening, masks, hand hygiene and social distancing.

1. **(May 20) What are some other important things to know about each phase?**

A nursing home will not advance to a new phase until there has been 14 days without a COVID identified case originating in the nursing home. A nursing home might also be in a different phase than other nursing homes in the community depending on the status of COVID cases in the home, the availability of PPE, testing and staffing. In addition, a nursing home will go back to phase 1 if there is any new onset COVID case in the nursing home, even if the nursing home is in phase 3.

States may also choose to have a longer waiting period between phases if a nursing home has a large outbreak of COVID-19 cases, if they have a poor history of maintaining good infection control, if they can’t maintain good staffing levels, or any other situation that the state is concerned about that may warrant additional restrictions.

1. **(May 20) Are there any survey requirements in the guidance?**

Yes. CMS provided guidance in the description of these phases about how state survey agencies will expand priorities over time and return to conducting regular survey activities to ensure care and services are delivered to residents in compliance with federal and state rules and regulations. Here is a link to that document: <https://www.cms.gov/files/document/qso-20-30-nh.pdf>

1. **(June 10) Who is making decisions about how different kinds of long term care settings will reopen so families can visit, residents can participate in group activities and communal dining, and residents can go out into the community?**

As we have talked about before, there is more guidance from the federal government for how nursing homes should reopen than for other settings like homes for the aged or independent living. The state will have to make decisions about requirements and recommendations for all of those settings. Right now, the state has created workgroups to look at plans to reopen nursing homes, various types of assisted living facilities, and independent living facilities. When the workgroup recommendations are final, they will be submitted to the Governor’s office so that final decisions can be made about how to move forward.

1. **(June 10) Will the changes happen all at once or will they be gradual?**

While nothing has been finalized yet, we anticipate that the Governor’s office will decide to reopen facilities and allow residents more freedom in several phases. These steps could happen at different times for different regions of the state or even for different facilities, depending on the circumstances. Plans could be made or modified depending on many factors including whether there is a new outbreak of COVID-19 in the facility, whether the community has increasing or decreasing numbers of cases, whether testing and PPE are widely available, and other factors.

1. **(June 10) As the state decides to relax restrictions on nursing homes, I’m worried that my mom will be exposed to the virus. Her nursing home has not reported any staff or resident cases so far. I understand the need to allow more visitors but if cases in the community start to rise again, won’t my mom be at more risk if her home is no longer locked down?**

This is a serious concern but there should be a number of safeguards to reduce the risk of infection. Staff and visitors will continue to be screened before entering the building and we hope nursing homes will be able to maintain a rigorous testing protocol to identify any new cases promptly. Nursing homes will have to continue strict infection control procedures. And the loosening of restrictions will likely be slow and gradual. If new cases are discovered, stricter requirements will be reinstated.

# **Reporting Requirements and COVID-19 Data**

1. **(May 6) Are the number of cases in each home that are reported on the state’s COVID-19 website accurate?**

It is difficult to answer this question because nursing homes might be reporting differently depending on how they are interpreting the criteria for reporting. For example, nursing homes may or may not include COVID positive residents who have already been sent to the hospital or passed away from the disease.

The numbers of cases being reported can change from day to day as it is not cumulative. Residents may be leaving the nursing home for a variety of reasons and not be reported on subsequent days.

1. **(May 13) Do nursing homes have to report COVID-19 cases to the state?**

Each day, nursing homes must report the number of residents suspected or confirmed to have COVID-19 to the state. This information is posted on the state’s website and is updated daily. All long-term care providers must report cases to the local health department as well.

1. **(May 27) What information do nursing homes have to report to the federal government?**

Beginning this month, nursing homes must report suspected and confirmed COVID-19 cases among residents and staff, total number of deaths and deaths related to COVID-19 among residents and staff, how much PPE and hand hygiene supplies are in the facility, ventilator capacity and supplies, the number of resident beds and the resident census, access to testing, staffing shortages and any other information the government requires. CMS, the Centers for Medicare and Medicaid Services, has stated it intends to share some or all of that information on its [website](file:///C%3A%5CUsers%5CAlisonHirschel%5CAppData%5CRoaming%5CMicrosoft%5CWord%5Cdata.cms.gov) beginning at the end of this month.

1. **(May 27) Will a nursing home be sanctioned if it does not report the required information?**

CMS has stated that any facility that has not reported information by May 31 will receive a warning letter. After that, the facility could be cited if it fails to report its information at least once a week.

1. **(May 27) Is there any data on COVID-19 in other types of long term care facilities, aside from nursing homes?**

The state is not reporting that information now but hopes to be able to do so in the future. You can ask the facility if they have or have had any COVID-19 cases among residents and staff and what their protocol is if someone in the facility develops COVID-19. The local health department may also be able to tell you if they are aware of outbreaks in particular facilities. Long term care facilities other than nursing homes do not have to report information to the federal government.

1. **(May 20) Will a nursing home be sanctioned if it does not report the required information?**

CMS has stated that any facility that has not reported information by May 31 will receive a warning letter. After that, the facility could be cited if it fails to report its information at least once a week.

1. **(May 27) I tried looking on the state website if there were COVID-19 cases at my dad’s nursing home but I couldn’t see any data. Where is it?**

The state took down its data available beginning on May 21. We understand the state is working to improve the data’s accuracy, timeliness and ensure the information is consistent with the new federal reporting requirements. The state has not said when the information will be available again. We have a [link](https://www.michigan.gov/coronavirus/0%2C9753%2C7-406-98163_98173-526911--%2C00.html) on our website to the page where the information will appear when it is again available.

1. **(June 3) When I look at the** [**data**](https://www.michigan.gov/coronavirus/0%2C9753%2C7-406-98163_98173-526911--%2C00.html) **on the State website, it looks like most nursing homes have not had any cases of COVID-19. That is great but could it be true?**

Many nursing homes are reporting they have *not* had any COVID-positive residents. Nationally, about one in four nursing homes that have reported to the federal government stated they had had at least one COVID-positive resident. Once testing is completed in all homes here, we anticipate some additional nursing homes will be reporting COVID-positive residents. We do not know if the nursing homes are reporting accurately because the data has not been audited. Finally, not all nursing homes have reported to the state yet.

1. **(June 3) When will we know whether there is COVID-19 in other long term care facilities?**

We still cannot answer that. We know the state is working on a reporting system but long term care facilities other than nursing homes do not have to report to the federal government and do not have the same access to reporting systems that nursing homes have. So, setting up a reporting system for those facilities is taking much longer than the reporting system for nursing homes.

1. **(June 10) I have heard legislators ask how many people contracted COVID-19 because nursing homes with residents who did not have the virus admitted residents who had the virus. Is anyone keeping track of how admitting COVID-positive residents affected other residents?**

We think it is probably impossible to track this accurately. If someone in the nursing home came down with COVID-19, we often would not know if they contracted it from a staff member, another resident, or someone else who might have been in the building. The resident may have contracted it before they came to the nursing home but might not have had symptoms or a positive test until after they were there. Since we did not have widely available testing, we often would not have known who had the virus and the potential to spread it.

# **Resident Rights**

1. **(May 6) Why are nursing home residents being visited by a nurse practitioner instead of a physician? Can a resident demand a visit from the physician instead?**

The federal government has allowed physicians in nursing homes to delegate in-person physician visits to nurse practitioners, physician assistants, or clinical nurse specialists who are not employees of the nursing home. The medical providers must still be supervised by physicians, however. These visits can also take place electronically if necessary. The resident can always ask if the physician is available to meet with them electronically or in-person.

1. **(May 6) What questions should residents ask before returning to their original long term care setting?**

A resident thinking about returning to their original long-term care settings may want to ask about PPE availability and how many positive cases there are at the original long term care setting, in order to make a decision about whether it is safe to return. The resident may also want to discuss any changes in his or her service or care needs with the long-term care provider to ensure those needs can be met upon return.

1. **(May 6) Why won’t the nursing home allow residents to go outside to smoke?**

Nursing homes may not have enough staff to take residents outside and still meet the care needs of all residents. It may also be hard to socially distance residents or disinfect the hallways or elevators the residents need to go through to get outside. The nursing home should offer residents nicotine gum or a patch while residents cannot smoke.

1. **(May 13) What can a resident do to be in control of their care if they get the COVID-19 virus?**

While many people with COVID-19 have no symptoms or only mild symptoms, some cases are more serious and may require the resident to make some health care choices. Residents may want to create or update their advance directives to say if they want to go to the hospital or if they want ventilator care if they get the COVID-19 virus. Residents could decide to only receive comfort care at the nursing home and not to go the hospital.

During this very difficult time, it is important for health care providers and family members to understand and honor the resident’s wishes in order to provide the level of care that the resident wants.

1. **(May 13) Can a resident leave the nursing home to live with a family member in the community?**

Yes, if the resident can make that decision, it is up to the resident to decide they want to move in with family. The resident should consider how their daily needs will be met and if the family’s home is set up to meet their needs. The Governor’s Executive Order 2020-50 protects the resident’s right to return to the nursing home.

1. **(May 27) My mom does not have an advance directive but she would refuse to go to the hospital if she began to have symptoms of COVID-19 and the nursing home wanted to transfer her. Would she be allowed to refuse to go?**

The Governor’s Executive Order states that residents who are medically unstable must be transferred to the hospital unless doing so conflicts with an advance directive. It does not address the situation in which a resident who has capacity to make decisions for himself or herself chooses to refuse treatment or when a guardian wants to refuse treatment on behalf of a resident. We think a resident always has the right to refuse treatment. However, the facility may transfer the resident if it believes the resident has COVID-19 so that it can protect other residents in the building from the virus.

1. **(June 3) I will be discharging my mother from her nursing home. I was advised by my attorney to have my mother evaluated by a personal physician before she leaves the facility. The facility states that the physician would not be allowed in due to the pandemic. Is that right since I understand that my mother has a right to use any doctor she chooses?**

It is true under normal circumstances, a resident has a right to choose his or her physician, although there are often obstacles to choosing someone outside the nursing home. And, normally, the facility must provide reasonable access to a resident by anyone who is providing health care services. But during the current crisis, the Governor has ordered that facilities use telemedicine when possible for regular doctor’s visits and other health care services. We know all non-essential health care providers have not been permitted to make regular visits to nursing homes because of the fear that they will spread the virus.

In your circumstance, you might ask about arranging for a telemedicine visit or, if it is feasible, arrange to take your mother to a doctor’s appointment outside the nursing home before she leaves. The nursing home might be concerned about your mother returning to the home after being out in the community to visit the doctor. We can try help you with that issue if it arises. Otherwise, you may wish to wait to arrange for a doctor’s visit until your mother leaves the nursing home.

1. **(July 1) With all the changes in nursing homes, what rights does my resident still have?**

Residents still have the right to:

* Receive the care and services needed to obtain their highest possible level of well-being.
* Participate in developing and implementing a person-centered plan of care that reflects personal and cultural preferences. This includes the resident’s right to make decisions about their care now and in the future, such as what treatment they might want related to COVID-19.
* Be free from abuse, neglect, exploitation, and misappropriation of resident property.
* Voice grievances without discrimination or retaliation, or the fear of it, and prompt efforts by the facility to resolve those grievances.
* Not be discharged or transferred except for certain reasons, to appeal the decision, and have a safe and orderly discharge/transfer if the resident leaves the facility.

# **Resources for COVID-19**

1. **(May 13) Who should people contact if they have concerns about infection control or a COVID-19 outbreak at a nursing home?**

Serious concerns related to COVID-19, infection prevention, shortage of staff, abuse, or neglect can be reported to the Department of Licensing and Regulatory Affairs (LARA) by calling 1-800-882-6006 or [online](https://www.michigan.gov/lara/0%2C4601%2C7-154-89334_63294_72973---%2C00.html).

1. **(May 13) Where can people get current information about COVID-19?**

The State of Michigan has a website for COVID-19 information and updates. You can visit the website at [www.michigan.gov](http://www.michigan.gov)/coronavirus. It has guidance for providers, updates from the Centers for Disease Control and Prevention (CDC), Executive Orders issued by Governor Whitmer, COVID-19 cases reported by nursing homes, and basic information for the general public.

The state also has a COVID-19 hotline (**888-535-6136)** open seven days a week from 8 a.m. to 5 p.m. as well email (**COVID19@michigan.gov**) for people to submit their questions and concerns. You can also sign-up to get COVID-19 email updates from the State.

1. **(June 10) Are there any upcoming events for family members of residents?**

Yes! The National Consumer Voice for Quality Long Term Care is sponsoring a webinar at 2 pm on June 18, a week from tomorrow. This webinar will provide information and tips on how to advocate for quality care individually and through family councils.  The webinar will also cover topics of particular concern to family members, including visitation, facility transparency and reporting requirements, transfers and discharges, COVID-19 testing and more.  You can register for the webinar on the Consumer Voice website at <https://theconsumervoice.org/> and we will have the [link](https://us02web.zoom.us/webinar/register/WN_XGo3QHPnRra1w3wXWyK7DA) on our website.

# **Services for Nursing Home Residents**

1. **(May 6) Why is the nursing home not providing in-person physical or occupational therapy to residents?**

Under a new federal government waiver of rules, nursing homes can provide physical therapy, occupational therapy, and speech therapy remotely using online technology. People moving to a nursing home for physical, occupational or speech therapy services should discuss their needs with the nursing home staff prior to admission to determine if the nursing home can meet their needs if tele-health is being used to provide therapy services. Existing resident who have had their therapy end due to these waivers for in-person therapy service delivery should also discuss their concerns with the nursing home staff or contact the long-term care ombudsman program.

1. **(June 3) I will be discharging my mother from her nursing home. I was advised by my attorney to have my mother evaluated by a personal physician before she leaves the facility. The facility states that the physician would not be allowed in due to the pandemic. Is that right since I understand that my mother has a right to use any doctor she chooses?**

It is true under normal circumstances, a resident has a right to choose his or her physician, although there are often obstacles to choosing someone outside the nursing home. And, normally, the facility must provide reasonable access to a resident by anyone who is providing health care services. But during the current crisis, the Governor has ordered that facilities use telemedicine when possible for regular doctor’s visits and other health care services. We know all non-essential health care providers have not been permitted to make regular visits to nursing homes because of the fear that they will spread the virus.

In your circumstance, you might ask about arranging for a telemedicine visit or, if it is feasible, arrange to take your mother to a doctor’s appointment outside the nursing home before she leaves. The nursing home might be concerned about your mother returning to the home after being out in the community to visit the doctor. We can try help you with that issue if it arises. Otherwise, you may wish to wait to arrange for a doctor’s visit until your mother leaves the nursing home.

# **Testing for COVID-19**

1. **(May 6) Can all staff and residents be tested for COVID-19?**

Due to the current limitation on testing abilities, there is no state-wide requirement for all staff and residents to be tested. There is recent guidance on testing priorities that allows asymptomatic nursing home staff to be tested. Asymptomatic residents are not included in the current testing priority list. But we are aware of some local public health departments testing all residents and staff in some counties where COVID-19 is widespread.

1. **(May 6) Are long term care facilities required to test residents before discharging them home**

A long term care facility is not required to test a resident if they are asymptomatic. There is new guidance stating that anyone with symptoms can be tested, and this guidance prioritizes long term care staff and residents. However, there is no guidance that mandates that residents who are asymptomatic should be tested. If a resident is concerned about being exposed to the virus around the time of being discharged, he or she could choose to self-quarantine in a separate area of the home after discharge.

1. **(May 20) How often should a nursing home test its residents?**

The CMS guidance suggest that nursing homes should have a comprehensive plan for testing. All residents should receive a single baseline test for COVID-19. Also, all residents should be tested upon identification of an individual with symptoms consistent with COVID-19 or if an employee or staff member tested positive for COVID-19.

1. **(May 20) How often should a nursing home test its staff?**

The CMS guidance suggests all staff should receive a baseline test and continue to be tested weekly thereafter.

1. **(May 20) Is the state conducting testing in nursing homes and long-term care settings?**

The state has enlisted help from the National Guard and Michigan State Police to support testing efforts across the state. Two weeks ago, testing was completed in nursing homes in the Upper Peninsula and is wrapping up testing in Oakland, Genesee, Kent, Muskegon, Washtenaw, Wayne, Ingham, Saginaw, and Macomb, and the City of Detroit. The next group of counties for nursing home testing includes Kalamazoo, Calhoun, St. Clair, Ottawa, Berrien, Gratiot, Bay, Eaton, Grand Traverse and Livingston. At this time, the AFC and HFA Testing Work Group continues to review survey data to determine the priority areas to begin testing. We should see recommendations from this group very soon.

1. **(May 20) What does the National Guard and State Police do with regards to COVID-19 testing?**

When a county is identified as a priority area, the local health department coordinates with the National Guard, Michigan State Police and the long term care facilities to begin the process. The state offers testing for both staff and residents. For some facilities, the facility may only need support with obtaining testing supplies or may also need additional PPE for testing. In this situation, the National Guard and the Michigan State Policy will deliver those materials to the facility and the facility staff will conduct the testing. The National Guard will deliver the “dirty” tests to the lab for processing. In other situations, the facility may need testing support and the national guard staff may enter the facility to assist with conduct the testing. Only qualified staff from the National Guard would be doing the testing.

1. **(May 20) What happens if a resident refuses to be tested?**

The resident can refuse to be tested, though it is strongly recommended that all residents be tested. We hope facility staff will work with a resident who refuses the test to overcome the resident’s fears or hesitations. If a resident refuses to be tested, the resident will likely be treated as if he or she is COVID-19 positive. This could involve being moved to a COVID-19 dedicated unit in the facility or at a sister facility or to a regional hub. If the resident does not have the virus, being transferred to a unit or facility for COVID-19 residents increases the risk the person will develop COVID-19. Unfortunately, it would likely be necessary to transfer the resident to protect other residents in case the resident who refused to be tested does carry the virus.

1. **(June 3) Are all facilities required to test their staff?**

No. While it is recommended by the Centers for Medicare and Medicaid Services that nursing home staff be tested weekly, it is not required and there may still be some shortages of tests in some areas. Some long term care facilities might choose not to test staff because they are concerned that staff who test positive would have to remain in their own homes and not be available for work.

1. **(June 17) I know the federal government required nursing homes to report a lot of information. But what information does the state collect about what is going on in Michigan nursing homes?**

The Michigan Department of Health and Human Services issued a new order this week that outlines reporting requirements for nursing homes. Every day, nursing homes have to report dozens of categories of information to the state including the number ofCOVID-19 cases, suspected cases, and deaths of both nursing home residents and staff; how much PPE the facility has including various types of masks, gloves, and eye protection; how many supplies like hand sanitizer and ventilator supplies they have; how many residents are transferred to the hospital or hubs; how many residents have recovered; and other information.

1. **(June 17) What happens if a nursing home doesn’t report what it is required to report?**

Under the order released by MDHHS this week, a nursing home that does not comply with the testing or reporting requirements of the order could get be fined $1000/day. There can also be penalties from the federal government if nursing homes fail to report the required information to CMS.

1. **(June 17) Do the requirements in this new order apply to assisted living facilities?**

No. MDHHS’s order this week only applies to nursing homes.

1. **(June 17) What testing will nursing homes be doing now?**

With the consent of the individual being tested or someone with legal authority to make medical decisions for that person, there will be:

* 1. Baseline testing of all residents and staff;
	2. Testing of all new or returning residents unless they were tested in the last 72 hours before they came to the nursing home;
	3. Testing any resident or staff member with symptoms or who might have been exposed to the virus;
	4. Weekly testing of all residents and staff in facilities with any positive cases among residents or staff, until 14 days after the last new positive case; and
	5. Additional testing of staff depending on what region of the state the nursing home is in.
1. **(June 17) Does this apply to hospices?**

If the hospice is licensed as a nursing home, the staff at the hospice have to be tested just like staff at nursing homes in that region. Hospice residents can be tested with their consent or the consent of someone who has legal authority to make medical decisions for them.

1. **(June 17) Do nursing homes have enough tests to do all the testing that is required?**

Some nursing homes may still be struggling to get those tests. The new Order states that the State will help support testing as much as it can and will help nursing homes locate other resources to help with testing.

1. **(June 17) How will the state know nursing homes are planning to do the testing that is required?**

All nursing homes must turn in detailed plans to the state by June 22nd including what labs or hospitals they are working with, how they will handle any residents or staff who refuse to be tested, and if they need help from the state to complete the required testing. Those plans are supposed to be available upon request to the public, too.

1. **(June 17) When will the homes start acting on their plans to test residents and staff?**

They have to start no later than June 29th unless they have requested help from the state and have not been able to receive it.

1. **(July 1) Facilities have indicated that some residents are testing positive continuously for 8-12 weeks.  Is there any information regarding false positives or tests that are more accurate?**

We don’t know if this is an issue with testing or if it is how a person presents after presumably recovering from the virus. We do know that MDHHS is aware of this concern and is working to address it and provide guidance. If this creates a placement issue for a resident, please reach out to the ombudsman program so we can understand the number of people impacted and share that data with MDHHS as it may help prioritize a response this issue.

1. **(July 15) Are there any updates on the COVD testing required of staff and residents in nursing homes?**

Yes. You may remember that MDHHS issued an Epidemic Order on June 15th which requires nursing homes to conduct baseline testing. It also requires weekly testing of all staff including contractors that are in the facility on a weekly basis, and on-going testing of residents when there is a new onset of a COVID case in the nursing home. Yesterday, Administrator Seema Verma, she’s the lead of the Centers for Medicare and Medicaid Services, announced that CMS is going to deliver point-of-care testing equipment to all nursing home in the country. The press release goes on to state that CMS will prioritize “hot spots” and those nursing homes will receive the equipment as early as next week. We do not know when Michigan will receive this important equipment, but we are pleased that nursing homes will be able to conduct tests and get results within hours. It has been reported by some, that there previously was a 20% error rate with this particular test.

1. **(July 15) What support is there for testing of residents in adult foster care or homes for the aged facilities who are not able to do drive-through testing?**

This question has been asked by a few providers and families. We don’t have an answer for how this can happen, but we did bring up the issue during AFC/HFA Testing Work Group meetings. We also sent an email directly to the facilitator of those meetings to seek a response. In the meantime, we suggest contacting your local health department to see if they are able to accommodate on-site testing or reach out to the Regional Healthcare Coalition to make them aware of the need.

1. **(July 22) What happens when a nursing home resident refuses a COVID-19 test but their Health Care Advocate or their guardian wants the resident to have it?**

If a doctor determines that the resident has trouble making decisions, and the resident has a legal guardian or someone acting as his or her power of attorney or patient advocate, the facility should consult that person. He or she can agree that the resident will have the test. If a resident refuses to test, a medical professional should talk to the guardian, power of attorney, or patient advocate about how to move forward but residents should not be forced to have tests if they refuse.

1. **(July 22) MDHHS issued an order about testing. Does that apply to all long-term care facilities?**

No. There is currently no required testing for facilities outside of nursing homes. MDHHS recommends testing residents who are in the same building as the nursing facility, and more broadly conducting resident testing to the extent possible, but this is not currently required.

1. **(July 22) Visitors are now being allowed in long term care facilities (not just nursing homes) in some circumstances. Do visitors need to be tested under this order?**

No, the testing requirements do not apply to visitors.

# **Transfer/Discharge/Re-Admission**

1. **(May 6) What happens when a resident at a Regional COVID-19 Hub is considered recovered and is ready for discharge?**

Under Executive Order 2020-50, which expires on May 13, 2020, residents have the right to return to their original facility. The staff at the Regional COVID-19 Hub should discuss the move with the resident and family or legal representative to coordinate the resident’s return to the original facility. If residents are not allowed to return, they can reach out to the ombudsman program and we will try to help.

1. **(May 6) What happens when COVID-19 positive residents who transferred to a nursing home, want to return their home for the aged, adult foster care home, or other assisted living setting?**

It depends on the situation and a consideration of several factors. This is really a case-by-case issue and the resident should contact the local ombudsman for assistance.

1. **(May 6) If a resident who has both Medicare and Medicaid is at the end of therapy for his or her Medicare stay in a nursing home, does he or she need to move to another nursing home if there are no Medicaid beds in the current home?**

If the nursing home takes part in the Medicaid program, Medicaid will allow the nursing home to use a Medicare bed to provide Medicaid services without getting prior approval. Most nursing homes in Michigan are Medicaid providers, so a resident usually should be able to stay in their original nursing home if therapy ends even if it means using a Medicare bed for a Medicaid covered stay. This is a complex issue, so please feel free to contact the local ombudsman for help.

1. **(May 13) Will a resident be moved within the nursing home if they get the COVID-19 virus?**

A resident could be moved to another area of the nursing home if the resident or the resident’s roommate tests positive or shows symptoms of COVID-19. This is done to provide the best care for residents with COVID-19 and help protect other residents from getting COVID-19.

1. **(May 13) Could a resident be moved to a different nursing home if they get the COVID-19 virus?**

A resident could be moved to a Regional COVID-19 Hub if the nursing home does not have enough PPE or a unit to care for COVID-19 affected residents. The state is selecting a limited number of nursing homes as regional hubs. If a bed in a regional hub is not available, a resident may be moved to a hospital within the state. If there is no hospital bed available, a resident may be moved to an Alternate Care Facility. Residents have the right to return to their nursing home once recovered and a bed is open but it is unclear what the timeframe for return will be.

1. **(May 13) What is an Alternate Care Facility?**

An Alternate Care Facility is a convention center or other location that is being used temporarily by the State to care for COVID-19 positive people who no longer need care in a hospital.

1. **(May 13) If a resident goes to the hospital for any reason, will they be able to return to their nursing home?**

When a resident is ready to leave the hospital, the nursing home must take the resident back if the nursing home can meet the resident’s care needs, has a COVID-19 unit with an open bed, and provides appropriate PPE to the staff. If not, a resident will go to a Regional COVID-19 Hub or Alternate Care Facility that has a bed and can meet the resident’s care needs. A resident will be moved back to the original nursing home once a bed is open, but it is unclear what the timeframe for return will be.

1. **(May 13) How much notice will be given if a resident has to change rooms or go to another nursing home?**

The nursing home will provide as much notice as possible to residents and their families, but during this challenging time it may be necessary to move residents without advance notice.

1. **(May 13) How will a resident be moved between nursing homes?**

Proper medical transportation will be used based on the residents’ medical status.

1. **(May 13) Can a family member or friend help when the resident has to move to another nursing home?**

Not at this time. With the no-visitation policy still in effect, friends and family cannot enter a nursing home to visit with a resident or help with a move.

1. **(May 27) Is there a ban against involuntary discharges (evictions) for non- payment in all long term care facilities or just in nursing homes?**

In Executive Order 2020-95, the Governor has extended the ban on involuntary discharges for non-payment until June 17 for nursing homes, homes for the aged, adult foster care facilities, and unlicensed assisted living facilities.

1. **(May 27) Is there any news about when a resident who left a long term care facility during the emergency, including those who went home with family, can return to their facility?**

Yes. The Governor’s Executive Order 2020-95 clarifies that the resident can return to a nursing home or other long term care facility as soon as it has capacity, can meet the resident’s needs, and there is no legal barrier—like a ban on admissions—to readmitting the resident. Before accepting the resident back, the facility must screen the resident according to guidance from the state. If the resident is COVID-19 positive, the facility can only re-admit the resident if it has a dedicated unit for COVID-19 residents or is a regional hub.

1. **(May 27) Does Executive Order 2020-95 change the protocol for what should happen to a resident in the hospital once he or she is ready for discharge?**

Yes. The Order states that a resident can be discharged to a hub, the home where the resident lived before going to the hospital, an alternate care facility that has the ability to care for the resident, or an available swing bed. It also says that the hospital must keep the resident “until an acceptable destination is identified.” We think this language is meant to prevent hospitals from discharging patients to places that may be inappropriate, like a homeless shelter or to a person’s family if the family is not able to care for the resident. However, we don’t know how “acceptable destination” will be interpreted and to whom the destination has to be considered acceptable.

1. **(May 27) Does my mom’s Adult Foster Care Home have to notify me if they transfer her someplace else?**

Yes, if you are your mother’s representative. Nursing homes, adult foster care facilities, homes for the aged, and unlicensed assisted living have to notify the resident’s representative –if that person is reachable--within 24 hours of a transfer or discharge.

1. **(June 3) If it doesn’t work out well for my mother to be home, can she return to the nursing home?**

Yes. If your mother is on Medicaid in a nursing home, she always has the right to leave the facility for up to a total of 18 days per year for “therapeutic leave.” In addition, as we have explained before, Executive Order 2020-95 allows residents who leave a nursing home or other long-term care facility during the state of emergency to return. They can do so as long as the facility has capacity, can meet the resident’s needs, has screened the resident upon return, and there is no legal barrier to the resident returning. The Executive Order does not include a time limitation for this protection.

1. **(June 3) My grandmother tested positive for COVID-19 at an assisted living facility. She has her own apartment there, is pretty independent, but does get meals and some help from nurse aides. She wasn’t having any symptoms and wasn’t feeling ill. The assisted living facility sent her to the hospital but the hospital did not admit her because she did not need hospital care. Now the assisted living facility won’t take her back. What should happen now?**

This is another question we have been asking the state. The most likely next step for your grandmother would be a transfer to a nursing home that has the ability to care for her on a designated COVID unit. We don’t think Regional Hubs are supposed to accept residents from assisted living facilities yet, so she would have to go to another nursing home that has a designated unit.

1. **(July 22) I saw a news flash this afternoon that the legislature has passed a law that COVID-positive residents cannot remain in nursing homes. What will happen if my husband develops COVID-19? Will he have to leave his nursing home even if it has figured out how to keep COVID-positive and negative residents safe?**

A bill, [Senate Bill 956](http://www.legislature.mi.gov/%28S%28mct103nfvs1lx324j4qcn2xk%29%29/mileg.aspx?page=GetObject&objectname=2020-SB-0956), has passed the Michigan House and Senate. The House version states that residents with COVID-19 must be taken care of in separate buildings. The version passed by the Senate has different language. So, we don’t know how the two bills will be reconciled or if the Governor will sign or veto the bill. It is too early to tell what the impact will be on residents. We will keep you posted on this. We did provide testimony in both the House and the Senate about the questions we had about the bill and the concerns we knew residents and families would have.

# **Treatment for COVID-19**

1. **(May 6) Is hydroxychloroquine a safe treatment for COVID-19?**

We are not medical professionals, but we know Hydroxychloroquine has sometimes been used as a treatment for COVID-19. We understand the medication is currently being studied in clinical trials and there is some evidence that it may have side effects. Residents or families who are concerned about a doctor prescribing this or any other medication or treatment should talk to their medical professionals about any concerns and can ask questions about how effective the medication is likely to be and whether it might have any side effects.

1. **(May 6) Is there any other medication or treatment that might prevent or reduce the symptoms of COVID-19?**

We understand there are clinical trials occurring on possible treatments. We are not aware of any vaccine or antibody treatment that has been approved to prevent or treat the disease at this time though we know that some people are treated with oxygen or are on ventilators to help them breathe.

# **Types of Long Term Care Facilities**

1. **(June 3) Can you just explain what types of homes exist? I am confused by the different terms.**

Yes. Nursing homes offer the highest level of care and are licensed by the state. Most are also certified to participate in (and be paid by) the Medicaid and Medicare programs.

Michigan also has two types of **licensed** assisted living facilities: homes for the aged and adult foster care facilities. These can provide assistance with activities of daily living like eating and bathing, chores, laundry, and other tasks. They have to comply with state licensing requirements and are inspected by the state. Consumers can file complaints with LARA, the Department of Licensing and Regulatory Affairs, about these facilities. All adult foster care facilities and homes for the aged are listed on the [state website](https://adultfostercare.apps.lara.state.mi.us/)—complete with information about their licensing history.

There are also many different types of unlicensed long term care facilities that people broadly refer to as “assisted living facilities.” These can vary from small homes to large facilities and may offer a variety of services. They may call themselves “independent living,” “assisted living,” “senior communities,” “memory care” or other names. They are not regulated or inspected by the state and there is no comprehensive list of these facilities. The state does not investigate complaints in these homes and does not have any regular communication with them.

1. **(June 3) I appreciate all the information you have given us in these calls, but I am confused which policies and answers apply only to nursing homes and which apply to other kinds of assisted living facilities?**

We know it is confusing. In each answer, we will try to clarify if we are talking only about nursing homes or about other long-term care facilities. Most of the guidance and requirements apply to nursing homes since they are the most highly regulated type of long term care facility and are regulated by both the state and federal government. We have prepared a short document that has links to resources about long term care facilities other than nursing homes and we can make that available on our website, [www.MLTCOP.org](http://www.MLTCOP.org).

# **Visiting Residents**

1. **(May 6) Do nursing homes have to allow window visits from friends or family members?**

Under the Governor’s Executive Order 2020-70, individuals are ordered to stay at home but there is an exception to allow individuals to visit residents in residential care facilities. The order also prohibits long term care facilities from allowing visitors to enter the building but does not prevent window visits. Nursing homes should also be encouraging visits through Skype, phone calls and other technology. Visitors should keep at least a six- foot distance from anyone they encounter outside and wear a face mask as required by Executive Order 2020-70.

1. **(May 6) What should a visitor consider when visiting at a resident’s window?**

For the visitor’s safety, it is important to take caution when leaving the paved areas as the ground could be uneven near the windows. Visitors should avoid visiting in any areas which might be reserved for resident use. If a resident has a window that looks out over a courtyard or other area that residents use, a visitor of that resident can contact the home to make an alternative arrangement (for example, having a visit at a dining room window). Visitors should not open windows when visiting, as this could allow transmission of the virus.

Special consideration should be given when visiting residents living with Dementia, as they may be frightened by visitors showing up outside their window wearing a mask. It is recommended that visitors coordinate with staff to ensure that residents living with Dementia or with limited cognition have a visit that is positive and tailored to their unique needs.

1. **(May 13) Can a family member or friend visit a resident through the window?**

Families and friends can visit a resident at the resident’s window as long as the window remains closed and the outside area is not being used by residents. It is important not to expose residents to the virus by allowing visitors into a resident area.

1. **(May 13) Can a resident at the end of life have visitors?**

Yes, residents at end of life can have family members visit, but the visitor must be screened for COVID-19 and follow the nursing home’s infection prevention protocols.

1. **(May 6) Can residents in other settings have window visits?**

The Executive Order allows individuals to leave their homes to visit people under the care of a health care facility, residential care facility, or congregate care facility. Adult Foster Care Homes and Homes for the Aged are included in these types of settings so the same rules and considerations for window visits would apply.

1. **(May 20) Are there any exceptions to the no visitor rule except for the compassionate visits at the end of life?**

The “no visitor” rule has been implemented very strictly in Michigan. However, there may be some other circumstances in which a family member or other person who has been screened for COVID-19 may be able to come into the building to assist with care or perform vital functions. One of the Governor's Executive Orders, EO 2020-72, created some confusion on this issue.

We are seeking clarification from the state now about what those exceptions may be and how families should resolve concerns if they have a very important reason to get into the facility--like needing to assist with feeding a resident who is losing weight and at risk because the family is no longer allowed in the building.  If you have one of those **very compelling** situations, an ombudsman may be able to assist you.

1. **(June 3) My Dad is on hospice and has been since the beginning of the crisis but the assisted living facility won’t let me in because they say he is stable. This is terribly hard for all of us. Does he have a right to have visitors?**

We think that he does. The Governor’s Executive Order allows visits for people who are in “serious or critical condition or in hospice care.” We know almost all nursing homes and assisted living facilities are limiting visits to the very end of life, but we think they are reading the Order too narrowly. We have been asking the state to please provide clarification to long term care facilities about the language of the Order. We hope to hear back from the state about this important issue very soon and will be advocating energetically on this issue.

While we understand it might be hard to define when someone is in “serious or critical condition,” it is easy to determine if someone is receiving hospice services. We are arguing that anyone on hospice should be allowed to have visitors, providing the long-term care facility uses all necessary precautions such as screening the visitors before they enter the facility and using appropriate PPE.

1. **(June 10) Last week you talked about urging the state to permit more liberal visitation for people on hospice. Has there been any progress on that?**

We have pushed that issue pretty hard in the last week. We know it is being considered by high level state officials because we have raised it with multiple individuals by email and in telephone calls. We also shared the very compelling concerns raised by one of the participants on this call. Those thoughts helped shape our advocacy and made us think about issues including why it might be important for more than one person to be able to visit at a time or for a resident to have more than one visit a day, the importance of children being allowed to visit when appropriate, the importance of permitting clergy to visit, and other issues. We have received confirmation from state officials that they think this is a priority issue but we have not seen any clarification yet. We know it is hard to be patient when every day with a loved one on hospice is so precious but we hope to have news soon and will continue to raise this forcefully at every opportunity. If necessary, we could consider seeking an injunction in court to permit visitation.

1. **(June 10) When visits and activities are allowed, will they be allowed for people who are COVID-positive or only for people who are COVID-negative? I think a resident who is COVID-positive might be even more in need of a visitor than someone who is negative.**

We share this concern. We don’t know yet how Michigan will answer this question but we know many other states are limiting visits to people who are COVID-negative. This precaution was likely implemented to prevent the resident from spreading the virus to his or her visitors or to others participating in the activities. We think visits might sometimes be appropriate to a resident with COVID-19 as long as the visitor has appropriate PPE and other precautions are taken. We also think residents on a COVID-positive unit who are feeling well might be able to participate in some activities with other COVID-positive residents. We are raising these issues with the state to try to find the right balance between safety and quality of life.

1. **(June 17) What type of visiting is currently allowed for long term care residents?**

Currently, the state allows for virtual visits and window visits. Virtual visits should be encouraged by facility staff for all residents regardless of COVID-19 status. These visits may include a simple phone call or a video call on a wireless phone. They could also be done through electronic forms of communication using applications like Zoom or Skype on computers, iPads or other tablets. Remember that **nursing homes** have the opportunity to apply for grant funds from the State Medicaid Agency to purchase electronic equipment for this purpose.

As we mentioned on previous calls, window visits can be a great way to put your eyes on your loved one and allow them to see you. We do caution that these visits should be planned with the resident or the facility staff in advance to ensure that the resident is not startled at the sight of someone outside the window. For residents without an accessible window on the ground floor, ask the facility staff if the resident could meet with you at a different window, like an empty room or office, the dining or activity room if it’s not in use, or another area that is safe for the resident and the visitor. We also want visitors to use extra care when leaving the sidewalk or parking lot as the areas around the windows may be uneven, and please don’t stomp on the daisies.

1. **(June 17) I haven’t been able to visit my mom in over two months. What is the status of allowing outdoor in-person visits?**

We understand how hard it is to not be able to visit with your loved one in a manner that does not include electronic devices or a window between the two of you. Outdoor in-person visits are still not allowed in Michigan for long term care residents. We have asked the state for clarification on these types of visits as we are unsure where this restriction is detailed in an executive order or guidance. We understand the state is addressing outdoor visits in the reopening plan currently being developed by the state with stakeholder input. We also recognize that there is no lack of compassion on behalf of our state contacts for this very difficult issue, but there is a public health concern that these visits could introduce or reintroduce COVID to residents or staff. We will be sure to keep you posted as we receive clarification or when guidance is released.

1. **(June 17) On previous calls, you talked about urging the state to permit more liberal visitation for people on hospice. Has there been any progress on that?**

Sadly, no. We have pushed that issue pretty hard the past two weeks. We know it is being considered by high level state officials because we have raised it with multiple individuals by email and in telephone calls. We also shared the very compelling concerns raised by one of the participants on this call. Those thoughts helped shape our advocacy and made us think about issues including why it might be important for more than one person to be able to visit at a time or for a resident to have more than one visit a day, the importance of children being allowed to visit when appropriate, the importance of permitting clergy to visit, and other issues. We have received confirmation from state officials that they think this is a priority issue but we have not seen any clarification yet. We know it is hard to be patient when every day with a loved one on hospice is so precious but we hope to have news soon and will continue to raise this forcefully at every opportunity. If necessary, we could consider seeking an injunction in court to permit visitation.

We also feel as a concerned family member that you might want to consider writing a letter to the governor to stress the benefits of a compassionate care visit for the resident and tell her the resident’s story. She needs to hear about the residents being impacted by this interpretation of her Executive Order and this may will help balance the push back those well-intended and charged with protecting the overall public health. We applaud those families who have written to her already.

1. **(June 17) When visits and activities are allowed, will they be allowed for people who are COVID-positive or only for people who are COVID-negative? I think a resident who is COVID-positive might be even more in need of a visitor than someone who is negative.**

We share this concern. We don’t know yet how Michigan will answer this question but we know many other states are limiting visits to people who are COVID-negative. This precaution was likely implemented to prevent the resident from spreading the virus to his or her visitors or to others participating in the activities. We think visits might sometimes be appropriate to a resident with COVID-19 as long as the visitor has appropriate PPE and other precautions are taken. We also think residents on a COVID-positive unit who are feeling well might be able to participate in some activities with other COVID-positive residents. We are raising these issues with the state to try to find the right balance between safety and quality of life.

1. **(June 24) 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. **(June 24) 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. **(June 24) 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, CMS 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. **(June 24) 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. **(June 24) 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 2020-108 is due to expire on June 26 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. **(June 24) 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](https://visitationsaveslives.com/). They are asking families to post a picture or video 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. **(July 1) I understand the state issued a new order about visitation in long term care facilities. What kind of facilities does it cover?**

Robert Gordon, the head of the Michigan Department of Health and Human Services issued an [MDHHS Epidemic Order](https://www.michigan.gov/documents/coronavirus/MDHHS_Epidemic_order_-_nursing_home_visitation_695378_7.pdf) yesterday that gives far more detail about when and under what circumstances visits will be allowed. This order applies to a wide array of licensed and unlicensed long term care facilities. It applies to:

* homes for the aged
* nursing homes
* adult foster care facilities
* hospice facilities
* substance abuse disorder residential facilities
* independent living facilities, and
* assisted living facilities
1. **(July 1) How does this Order from MDHHS jive with the Executive Order 2020-136 which the Governor issued on June 26 and which talks about restrictions on visitation?**

The Governor’s most recent Executive Order on this issue has similar language to previous executive orders that have been in place since March and that barred most visitors. The latest order explains that the Director of MDHHS can issue orders and directives to implement the Governor’s Executive Order and to better explain any exceptions to the general ban on visitors. The MDHHS Order is meant to provide more detailed guidance than is offered in the Executive Order. This is really the document we have been waiting for to clarify what visits should be allowed now.

1. **(July 1) And how does this MDHHS Order jive with the guidance from the federal government (CMS) that we talked about before? That guidance discussed the different phases nursing homes would have to go through as they gradually allow more visitation.**

It *is* confusing when orders and guidance come from so many different sources and change frequently. The federal government guidance that we have talked about before suggests but does not mandate how states should gradually reopen nursing homes. But states have a lot of flexibility to determine how and when to reopen nursing homes to visitors. Different states are taking different approaches. We are still waiting for the Governor to release Michigan’s plan for reopening nursing homes. But the important thing to understand tonight is that the new MDHHS Epidemic Order that was issued last night is in effect *right now.* Long term care facilities can now allow visits in the limited circumstances described in the MDHHS order.

1. **(July 1) We have talked a lot about when a resident on hospice can receive visitors. Many facilities thought visits had to be limited to the last hours of life. Is that right?**

Fortunately, that is not right. This MDHHS Order clarifies that there are two circumstances in which people nearing the end of their lives can receive visitors. They are:

* Residents enrolled in hospice services, regardless of whether the resident appears to be in serious or critical condition or at the end of life; and
* Residents receiving end of life care who are not enrolled in hospice.
1. **(July 1) Can residents who have a serious decline receive visitors even if they are not necessarily at the end of life?**

Yes. The Order gives two situations in which residents not at the end of life could receive visitors because their condition has significantly declined:

* Residents whose wellbeing is at significant risk, based on the clinical judgment of a treating medical professional, where family visits are a potentially effective intervention; and
* Residents who experience a significant adverse change of condition.
* We know that there may be differences of opinion about when a resident’s wellbeing is at significant risk, when family visits would be effective in addressing that situation, and when a resident has a significant adverse change of condition. But we are grateful that the language opens up some opportunities for visits when something worrisome is going on.
1. **(July 1) Are there other circumstances in which a resident could have a visitor right now?**

Yes. The Order addresses residents whose family or friends need help with activities of daily living, like help at mealtime. They are also allowed if effective communication is not possible otherwise because the resident has hearing, vision, or speech impairments and that other kinds of communication that are not in person won’t work. These visits are allowed if:

* The arrangement for the family or friend to provide that help existed before March 14, 2020 when the lockdown went into effect *or* become necessary in light of a change in the resident’s condition, such as if the resident is now refusing to eat.
* The resident’s situation could be improved with assistance from a friend or family member helping with an activity of daily living, like help at mealtimes to ensure adequate nutrition.
* The visits are so the friend or family member can assist with an activity of daily living such as help with meals to ensure adequate nutrition
* The visitor wears a mask at all times (but does not have to maintain social distance).
* The visitor knows how to perform the assistance and is observed or trained to make sure the visitor is doing the task correctly.
* These visits must be scheduled in advance for a specific activity of daily living and must occur in the resident’s room or a room designated by the facility.
1. **(July 1) You mentioned some requirements for visitors who are visiting to help with an activity of daily living. Are there any general requirements for all visitors that we should expect the facilities to follow?**

Yes. There are many required procedures for these visits. These include:

* When visitors arrive, they should see signs that say all visitors must be screened and no one can enter if they have symptoms of COVID-19.
* Visitors can enter only through entrances where they will be screened and must be screened each time they enter the facility. Visitors who don’t pass the screening—if, for example, they have a fever or have been exposed to someone with the virus—cannot enter the facility. If visitors do pass, their movement in the facility on the way to visit residents should be limited to reduce exposure.
* Visits can be by appointment only and facilities can impose reasonable time limits and must log arrival and departure times.
* Residents will be limited to no more than 2 visitors at a time.
* Only those visitors who are able to wear face covering for the whole visit and follow hand hygiene requirements are allowed in.
* Facilities must make hand sanitizer or hand washing available to visitors and post information on proper hand washing and sanitation.
* Facilities have to make staff who are trained in infection control available to assist with the visitor protocols, monitor visits, and clean after each visit.
* Visits should be outdoors if possible (with appropriate protections like shade) or in the resident’s room (if a single) or other location in the facility. If residents have to be transported outside their rooms for a visit, they cannot be taken through a COVID unit or exposed to residents who have COVID or may have it.
* Facilities must provide PPE if necessary to visitors and instruct visitors how to use it.
* Maintain social distancing (unless helping with ADLs).
* Visitors and residents are not supposed to share food.
* Visitors who develop symptoms of COVID-19 within 14 days of a visit to a facility must notify the facility.
* No visits will be allowed with COVID-positive residents or those under observation for COVID-19.
1. **(July 1) There are a lot of requirements for facilities before they can allow visits and we know they are already understaffed in many cases. Can a facility just say they won’t allow the visits because they cannot comply with all the requirements?**

We have been advocating for language that requires facilities to facilitate visits whenever possible. We anticipated that some facilities would think it was easier and more convenient for the facility to just say no to visits. We were pleased to see language that facilities must:

* Make their best efforts to facilitate visitations with individuals under their care by phone or other electronic communication platforms to the fullest extent possible
* Attempt to contact the resident’s next of kin to establish arrangements when a visit to help with an activity of daily living would be permitted. So these facilities can’t just wait for families and residents to find out themselves that visits might be allowed; the nursing home or other facility has a duty to tell people when a visit should be allowed.
1. **(July 1) What remedy is there if the facility still refuses to allow visits or unduly restricts visits even in the circumstances described in the Order or if there is disagreement if a situation falls within the Order or not?**

Please call your local ombudsman for help with these situations if they occur in a licensed facility. Please call the MEJI office at 517-827-8010 if they occur in an unlicensed facility. We are all still learning how this Order will be implemented and the remedies are not entirely clear, but we are glad to try to help work through these situations to permit visits when they should be permitted.

1. **(July 1) When we do get to visit, what should I do if my dad does not recognize me?**

Visits are going to be very different from what we have been used to. Families should prepare themselves both mentally and emotionally for these visits and ask the home to help the resident prepare also. After you are able to schedule an in person visit, have a conversation before the visit takes place to talk with your resident about expectations like “we will both be wearing masks and I won’t be able to give you a hug but I am so excited to see you.” Stay positive to boost the morale of the resident.

Take the lead from your resident about what is important to him/her. It may be difficult for the resident to hear you through the mask or they may not recognize you because of the mask. You may be concerned about your resident’s change in appearance. Your resident may have had a decline physically or mentally. Continue to support your resident in their reality.

Remember, outdoor visits may only be for a short period of time. You will not be able to hug or even touch your resident. Not even hold their hand. You will have to social distance. Not being able to comfort your resident physically may be very difficult. Also, your visit may be supervised. The home should try to ensure as much privacy as possible. If you think that any rules set forth by the nursing home is unreasonable, please contact your local ombudsman.

1. **(July 15) Can a facility refuse a visit even if the resident meets the criteria in the MDHHS Epidemic Order?**

Unfortunately, yes, the facility could refuse to allow a family member to visit if the facility is not able to provide for a safe visit. The facility may not have a staff person to screen the visitor, supervise the visit to ensure physical distancing and face coverings are honored, or they may have a current onset of a COVID case. We also believe that facilities will continue to ban visitors while the state is seeing an increase in community spread due to the fear of brining COVID into the building.

1. **(July 15) If family members are not allowed to visit, what other actions can be taken if there are concerns about the resident not receiving appropriate care and services?**

Families and residents can file a complaint with the Michigan Department of Licensing and Regulatory Affairs. For a nursing home complaint, call 800-882-6006 and for a Home for the Aged or Adult Foster Care compliant, call 866-856-0126. You may also call your local ombudsman at 866-485-9393 to ask for guidance on filing a complaint. At this time, the federal government has restricted the survey activities to not all complaints are being investigated at this time. It’s important to share as many details as you can and stress how the issue is having a negative impact on the resident and causing a serious decline (weight loss, no longer walking, developed pressure ulcers, fell when assistance was not provided, etc.)

1. **(July 29) What can a family member do if the resident meets the criteria for a visit and the facility does not allow the visit?**

We are hearing many concerns about residents who meet the visitation criteria, but the facility is not allowing the resident to have a visitor. We have also heard that more residents are being allowed to have visitors following the MDHHS guidance.

* First, we suggest that you ask the facility if they are familiar with the [MDHHS Epidemic Order](https://www.michigan.gov/documents/coronavirus/MDHHS_Epidemic_order_-_nursing_home_visitation_695378_7.pdf) as they may not be aware it exists or that it is still in effect. Education can sometimes help the facility understand what can be allowed.
* If that doesn’t resolve the issue, ask what the reason is for denying the visit. Perhaps the facility does not have the staff to supervise the visit or has a recent in-house onset of a COVID-19 case. If the reason is not facility or resident specific, question why they feel the visit cannot be done safely.
* Contact the long term care ombudsman to ask for assistance in advocating for a visit.
* If the resident is on hospice, ask the Hospice doctor to write a physician order for the resident to have a visitor as this will benefit the resident’s wellbeing.
1. **(July 29) Are there any general requirements for all visitors that we should expect the facilities to follow?**

Yes. There are many required procedures for these visits. These include:

* When visitors arrive, they should see signs that say all visitors must be screened and no one can enter if they have symptoms of COVID-19
* Visitors can enter only through entrances where they will be screened and must be screened each time they enter the facility. Visitors who don’t pass the screening—if, for example, they have a fever or have been exposed to someone with the virus—cannot enter the facility. If visitors do pass, their movement in the facility on the way to visit residents should be limited to reduce exposure.
* Visits can be by appointment only and facilities can impose reasonable time limits and must log arrival and departure times.
* Residents will be limited to no more than 2 visitors at a time.
* Only those visitors who are able to wear face covering for the whole visit and follow hand hygiene requirements are allowed in.
* Facilities must make hand sanitizer or hand washing available to visitors and post information on proper hand washing and sanitation.
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* Visits should be outdoors if possible (with appropriate protections like shade) or in the resident’s room (if a single) or other location in the facility. If residents have to be transported outside their rooms for a visit, they cannot be taken through a COVID unit or exposed to residents who have COVID or may have it.
* Facilities must provide PPE if necessary to visitors and instruct visitors how to use it.
* Maintain social distancing (unless helping with ADLs).
* Visitors and residents are not supposed to share food.
* Visitors who develop symptoms of COVID-19 within 14 days of a visit to a facility must notify the facility.
* No visits will be allowed with COVID-positive residents or those under observation for COVID-19
1. **(July 29) Can a facility refuse a visit even if the resident meets the criteria in the MDHHS Epidemic Order?**

Unfortunately, yes, the facility could refuse to allow a family member to visit if the facility is not able to provide for a safe visit. The facility may not have a staff person to screen the visitor, supervise the visit to ensure physical distancing and face coverings are honored, or they may have a current onset of a COVID case. We also believe that facilities will continue to ban visitors while the state is seeing an increase in community spread due to the fear of brining COVID into the building.

1. **(July 29) What remedy is there if the facility still refuses to allow visits or unduly restricts visits even in the circumstances described in the Order or if there is disagreement if a situation falls within the Order or not?**

Please call your local ombudsman for help with these situations if it occurs in a licensed facility. Please call the MEJI office at 517-827-8010 if they occur in an unlicensed facility. We are all still learning how this Order will be implemented and the remedies are not entirely clear, but we are glad to try to help work through these situations to permit visits when they should be permitted.

1. **(July 29) Are the other groups to help support families that are being impacted by the visitation restrictions?**

Yes. We have talked before about [The National Consumer Voice](https://theconsumervoice.org/) which is an advocacy organization for long term care residents, families, and ombudsmen. It has many resources available specifically related to COVID.

We just learned of a new group organizing in Michigan. It’s called **Michigan Caregivers for Compromise**. We found them on Facebook. They also have a national Facebook page (**Caregivers for Compromise**) and each state has started a group.

This may be an opportunity for family members and friends of residents to share your stories, learn how others are advocating for visits and identifying other care and service concerns, and combine your efforts for a strong voice to effect change.

# **Miscellaneous**

1. **(May 6) Can a nursing home take longer than two days to release a copy of a resident’s medical records?**

The federal government has waived the requirements for a person to be able to receive a copy of their records in two working days. This period has now been extended to ten working days. Residents and their legal representatives still have a right to receive a copy of their medical records.

1. **(May 6) Why is the nursing home holding resident mail and other deliveries?**

Not knowing how long the COVID-19 virus can live on paper, cardboard, or plastic, nursing homes are taking extra steps to avoid exposing residents to the virus, including holding mail and other deliveries for several days. This is to protect residents during this outbreak.

1. **(June 24) 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, [Senate Bill 956](http://www.legislature.mi.gov/%28S%28mct103nfvs1lx324j4qcn2xk%29%29/mileg.aspx?page=GetObject&objectname=2020-SB-0956), 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.

1. **(July 1) Is there any update on the status of expired driver’s license we talked about on our previous call?**

Yes. Today, Governor Whitmer signed Senate Bills 876-878, which codify her previous Executive Orders**,** further extending the renewal dates for driver’s licenses, CDLs, state ID cards and vehicle registrations. Among the extensions outlined in the legislation, those with driver’s licenses or vehicle registrations expiring after March 1 have until September 30, 2020 to have them renewed.

1. **(July 15) Were there any Executive Orders issued this week that impact long term care?**

Yes, Governor Whitmer issued [Executive Order 2020-151](https://www.michigan.gov/whitmer/0%2C9309%2C7-387-90499_90705-534176--%2C00.html) which extends the state of emergency through August 11, 2020. She issued [Executive Order 2020-148](https://www.michigan.gov/whitmer/0%2C9309%2C7-387-90499_90705-534172--%2C00.html) which offers protections for staff and residents of long term care facilities (such as protections against involuntary discharge due to non-payment, protects the residents right to return to the facility is they temporarily move to the community, requires facilities to create COVID19 units to cohort residents, authorizes MDHHS to designate facilities as Regional COVID Hubs). She also issued [Executive Order 2020-147](https://www.michigan.gov/whitmer/0%2C9309%2C7-387-90499_90705-534169--%2C00.html) which requires the wearing of a face mask with limited exceptions.