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

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1. **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) (the consumervoice.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. **Are there any upcoming events I could join to speak out about my concerns about long term care facilities?**

Yes. For those of you that use Twitter or know someone who does, you can Join the Leadership Council of Aging Organizations, in honor of Older Americans Month, for a Twitter Chat **tomorrow**, May 28th, from 2:00pm - 3:00pm to call attention to older adults and COVID-19.  Topics will include urging the federal government to do more to protect individuals receiving long-term care including ensuring quality care and promoting the rights of residents in nursing homes, assisted living, and other care settings. There will likely also be discussions about promoting safer environments for the workforce serving older adults.  Join the Twitter chat if you want to lend your voice to these important issues.  You can participate on Justice in Aging's Twitter - [@JusticeinAging](http://act.theconsumervoice.org/site/R?i=jES8nWF2UNKsnjH7kzvTIQ) -tomorrow.

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

1. **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. **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. **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. **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. **What does the National Guard and State Police do with regards to COVID19 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 delivery 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. **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. **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. **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. **We know there are still shortages of PPE in some facilities. Does the state keep track of which homes need PPE?**

All long term care facilities must keep accurate and current data regarding the quantity of each type of appropriate PPE available at the facility. They are required to report this information to the state in whatever manner the state requires. As noted above, nursing homes also have to report this information to the federal government. If a facility lacks PPE, it should also notify its local health department which may be able to help.

1. **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. **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. **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. **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. **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. **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. **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. **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. **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.