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

# Version date: June 3, 2020

1. **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.

1. **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 a state website—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. **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. We have a link to that website on our program’s website, MLTCOP.org 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. 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. **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. **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. **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. **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. **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. **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. **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. **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. **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. **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 a [public website](http://spots_public.apps.lara.state.mi.us/) called “SPOTS.” 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?) but this might not happen for quite a while.

1. **When I look at the** [**data**](https://www.michigan.gov/coronavirus/0,9753,7-406-98163_98173-526911--,00.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. **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. **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 they 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. **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. **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.