



AMENDED DIRECTIVE AND ORDER REGARDING NURSING HOME MATTERS

Pursuant to Health General Article §§ 18-102, 18-103, 18-109, and COMAR 10.06.01.06

No. MDH 2023-01-18-02

I, Laura Herrera Scott, Secretary of Health, finding it necessary for the prevention and control of 2019 Novel Coronavirus and the disease that it causes (“SARS-CoV-2” or “2019-NCoV” or “COVID-19”), and for the protection of the health and safety of patients, staff, and other individuals in Maryland, hereby authorize and order the following actions for the prevention and control of the spread of this infectious and contagious disease that endangers public health in this State.

This Amended Directive and Order replaces and supersedes the Directives and Orders Regarding Nursing Home Matters, dated September 30, August 26, June 27, January 13, 2022, September 08, August 18, June 15, May 04, February 11, 2021, December 8, November 17, October 27, October 1, July 24, June 19, April 29, April 24, April 9, and April 5, 2020.

1. **Protecting Nursing Home Residents:**

- A. Facilities licensed under Title 19, subtitles 3 and 14 of the Health-General Article and COMAR 10.07.02 (“nursing homes”) shall immediately ensure that they are in full compliance with all [U.S. Centers for Disease Control and Prevention \(CDC\)](#), [U.S. Centers for Medicare & Medicaid Services \(CMS\)](#) and [the Maryland Department of Health \(MDH\)](#) guidance related to COVID-19.

Nursing homes shall check CDC, CMS, and MDH guidance daily to ensure that they are complying with the most current guidance and adjust their policies, procedures, and protocols accordingly.

- B. Facilities shall provide COVID-19 guidance to all persons who enter the facility (e.g., staff, volunteers, vendors, and visitors) in accordance with the Centers for Medicare and Medicaid Services (CMS) Core Principles of COVID-19 Infection Prevention guidance (Ref: [QSO-20-39-NH](#) or as revised).

2. **Protecting Nursing Home Staff:** Maryland continues to prioritize nursing homes in the highest category to receive personal protective equipment (PPE) if supplies cannot be obtained through normal medical supply channels.

- A. All nursing homes shall use the process established by MDH to request PPE from the State: [PPE Request Form](#).
- B. All personnel who are in close contact with residents of nursing homes shall use appropriate Standard and Transmission-based Precautions and Infection Prevention and Control Recommendations for Healthcare Personnel, as recommended by MDH and [CDC](#). Facilities shall use good faith efforts to maintain adequate supplies of all types of PPE.

3. **Outbreak Prevention, Reporting, and Containment:**

- A. **Emergency Preparedness Plan:** Subject to 42 C.F.R. § 483.73 and COMAR 10.07.02.40, each facility shall:
 - i. Implement its emergency preparedness plan/emergency and disaster plan including notification of families and staff; increase as appropriate its staff coverage, organization and assignment of responsibilities; and track residents displaced due to the COVID-19 outbreak;
 - ii. Designate and provide the Maryland Department of Health's Office of Health Care Quality with the contact information for its emergency and disaster planning liaison as well as to the local jurisdiction's emergency management office and health department; and
 - iii. Provide the plan, as well as any COVID-19 specific revisions to the plan, to the Maryland Department of Health's Office of Health Care Quality upon request.
- B. **Facility Reporting to Health Department:** All facilities shall report on a daily basis specified information as requested via platforms as directed by MDH.

Each facility report shall include at least the following:

- i. The census of occupied beds;
- ii. Number of residents with positive COVID-19 test results;
- iii. Number of staff with positive COVID-19 test results;
- iv. Number of deaths, by COVID-19 status;
- v. On a weekly basis, the number of staff and residents that are fully vaccinated; and
- vi. Any other information required or asked for.

- C. **Facility Reporting to Residents, Residents' Representatives and Staff:** All facilities must provide informational updates on COVID-19 to residents, residents' representatives, and staff following CMS guidance.

The above information must be reported to residents, residents' representatives, and staff in accordance with existing privacy statutes and regulations.

4. **Testing:**

Facilities shall follow all testing requirements as set out by CMS (Ref. [QSO-20-38-NH](#); [QSO-20-38-NH](#)), or as updated.

- i. Each facility shall be responsible for making appropriate contractual and financial arrangements for the testing of these staff, volunteers, and vendors.
- ii. Each facility shall establish and maintain COVID-19 testing arrangements with laboratories for PCR Assay-based testing.
- iii. As directed by MDH, a facility shall perform additional COVID-19 testing or permit COVID-19 testing to be administered on residents and staff by MDH, a local health department, or by designated MDH Response Team member(s).

Note: Individuals that refuse testing may be required to go to and remain in places of isolation or quarantine, pursuant to Health Gen. Art. § 18-905(a)(iii) if they show signs or symptoms of COVID-19.

Note: Staff members include employees, consultants, contractors, volunteers, students, vendors, and caregivers who provide care and services to residents on behalf of the facility.

Note: Per [the CDC](#), testing upon admission is dependent on Community Transmission levels. Where recommended, test upon admission and, if negative, again 48 hours after the first negative test and, if negative, again 48 hours after the second negative test. Admissions should also be advised to wear source control for the 10 days following their admission.

Residents who leave the facility for 24 hours or longer should generally be managed as a new admission.

5. **Staff Assignments:** Nursing homes shall immediately implement, to the best of their ability and in alignment with [CDC guidance](#), the following personnel practices:
- A. Establish during each shift a cohort of staff who are assigned to care for known or suspected COVID-19 residents.
 - B. Designate a room, series of rooms, unit, or floor of the nursing home to care for residents with known or suspected COVID-19 per [CDC guidance](#), including as appropriate new or re-admissions.
 - C. Pursuant to COMAR 10.07.02.19, nursing homes shall maintain adequate staffing to meet the needs of all residents at all times. In determining whether a nursing home has met this requirement, the Office of Health Care Quality will take into account that a resident who has known or suspected COVID-19 generally requires increased direct bedside care hours each day, above the mandated minimum of 3.0 hours in the current regulations.

Direct bedside care may be provided by a registered nurse, licensed practical nurse, geriatric nursing assistant, certified nursing assistant, dietary aide, physical therapy aide, occupational therapy aide, and other qualified staff.

6. **Daily Resident Evaluation for COVID-19 by Clinical Staff:**

Each nursing home resident shall be evaluated daily to check for COVID-19 by the nursing home's clinical staff. Per [the CDC](#), anyone with even mild symptoms of COVID-19, regardless of vaccination status, should receive a viral test for SARS-CoV-2 as soon as possible.

The evaluation shall include vital signs as well as the identification of new or worsening signs or symptoms. CDC symptoms for COVID-19 are located here: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

In addition to the daily evaluation, all interdisciplinary team members shall report findings that might represent a significant change of condition to the charge nurse or staff nurse for further assessment.

All evaluations shall be documented in the resident's medical record. The nursing staff shall timely convey significant findings to a physician, nurse practitioner, or physician assistant for follow up face-to-face in-person or via telehealth. Facility staff shall document telephone calls and medical practitioners shall document face-to-face in-person and telehealth visits in the resident's medical record.

The failure of the licensed or certified nursing home staff to comply with this directive may result in referral of the individual to the appropriate licensing board or the criminal and civil penalties described below.

7. **Right of Return for Previously Ill Residents:** Returning residents to their nursing facility, their home, remains a priority. For nursing home residents admitted or seen at a hospital for COVID-19, the residents shall be allowed to return to the nursing home as long as the facility can follow the approved [CDC recommendations for transmission-based precautions](#). If the residents must temporarily go to other facilities, every effort must be made by the receiving and original nursing homes to transfer the residents back to their original nursing homes as soon as possible.

8. **Visitation**

- A. All nursing homes shall follow the Centers for Medicare & Medicaid Services (CMS) guidance on nursing home visitation regarding COVID-19 (Ref. [QSO-20-39-NH](#)) or as updated. Either MDH or a local health department may direct a facility to a more restrictive set of conditions when warranted by the scope and severity of an outbreak.
- B. A facility shall communicate regularly with staff, the local ombudsman, residents, and residents' representatives about the facility's current visitation policies, including infection control policies and procedures.
- C. Visitors with confirmed SARS-CoV-2 infection or compatible symptoms are strongly encouraged to defer non-urgent in-person visitation until they have met the [healthcare criteria](#) to end isolation.

9. **Vaccinations**

- A. **Resident Vaccination Policies and Procedures:** Each facility shall:
 - i. Identify for MDH a facility point of contact for coordination of vaccine administration and be successfully registered in ImmuNet as a COVID-19 vaccine provider.
 - ii. Enter into an agreement, if applicable, with a clinical partner that is registered as a COVID-19 vaccine provider and is able to provide for the administration of COVID-19 vaccine to residents. The clinical partner shall provide on-site COVID-19 vaccination administration to residents at regular intervals.

Note: Facilities are encouraged, if they do not have the ability to provide COVID-19 vaccine administration to enter, to seek partners with local retail pharmacies, or other clinical providers. MDH can assist with pharmacy coordination via mdh.congregate@maryland.gov.

- iii. Each facility point of contact shall

- a. Identify new staff and admitted residents to the facility to ensure the individual's vaccination needs are met,
- b. Ensure that each facility's vaccination data are reported to MDH as outlined in Section 3.B above, and
- c. Ensure that each facility's vaccination data for staff and residents is displayed prominently to the public entering the facility.

B. Medical Countermeasures to Prevent the Spread of COVID-19

- i. Each facility or their COVID-19 vaccination clinical partner shall offer the opportunity to each resident (both directly and to their designated healthcare decision maker, if applicable) to become up to date in their vaccination status.
- ii. Upon identification of an outbreak at the facility, residents shall be offered the opportunity to receive an [approved or Emergency Use Authorized U.S. Food and Drug Administration therapeutic treatment](#) that are designed to prevent a COVID-19 case from being more severe or resulting in a hospitalization, such as oral antivirals. COVID-19 therapeutic therapies must be offered to those residents that test positive and also to residents as a prophylaxis treatment.
- iii. Each facility shall develop and implement policies and procedures for administering COVID-19 vaccine to residents, consistent with 42 C.F.R. § 483.80(d)(3) and the guidance issued by CMS at [CMS interim final rule QSO-21-19-NH](#), or subsequent final rule action.
- iv. Each facility shall maintain in a resident's medical record documentation that includes, at a minimum, the following:
 - a. The provision of education regarding the benefits and potential risks associated with COVID-19 vaccine or above referenced therapeutic to the resident or the resident's representative;
 - b. Each dose of COVID-19 vaccine or above referenced therapeutic administered to the resident; or
 - c. The resident's refusal to be vaccinated or receive above referenced therapeutic; or
 - d. Any medical contraindications to administration of the vaccine or above referenced therapeutic to the resident.

10. **Penalties**

Persons who violate this Order and Directive may face administrative and criminal sanctions.

11. **Termination:**

This Directive and Order shall cease to have effect and be rescinded at 11:59 P.M. on April 18, 2023 or when the [federal Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus](#) is terminated, whichever condition comes first.

12. **Severability:** If any provision of this Directive and Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of this Directive and Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Directive and Order are severable.

THESE DIRECTIVES AND ORDERS ARE ISSUED UNDER MY HAND THIS 18TH DAY OF JANUARY 2023 AND ARE EFFECTIVE IMMEDIATELY.



Laura Herrera Scott, MD, MPH
Secretary