



JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

COVID-19: ADVOCATING FOR NURSING HOME RESIDENTS, PART X

June 26, 2020

Agenda

- I. Introduction and housekeeping
- II. CMS Guidance on Reporting of Staffing Data
- III. Preparing Comments on Interim Rule on Reporting Requirements
- IV. Reuniting Residents and Families
 - I. Ohio experience
 - II. West Virginia experience
 - III. New CMS FAQs
 - IV. Social media campaign – Tuesday, June 30
- V. Q&A/Discussion

Presenters

- Richard Mollot, Long-Term Care Community Coalition
- Robyn Grant, Consumer Voice
- Beverley Laubert, State Ombudsman, Ohio
- Suzanne Messenger, State Ombudsman, West Virginia
- Lori Smetanka, Consumer Voice
- Mike Dark, CANHR



NEW!

Changes to Star Ratings & Reporting of Staffing Levels, Quality Measures on NH Compare

Richard Mollot

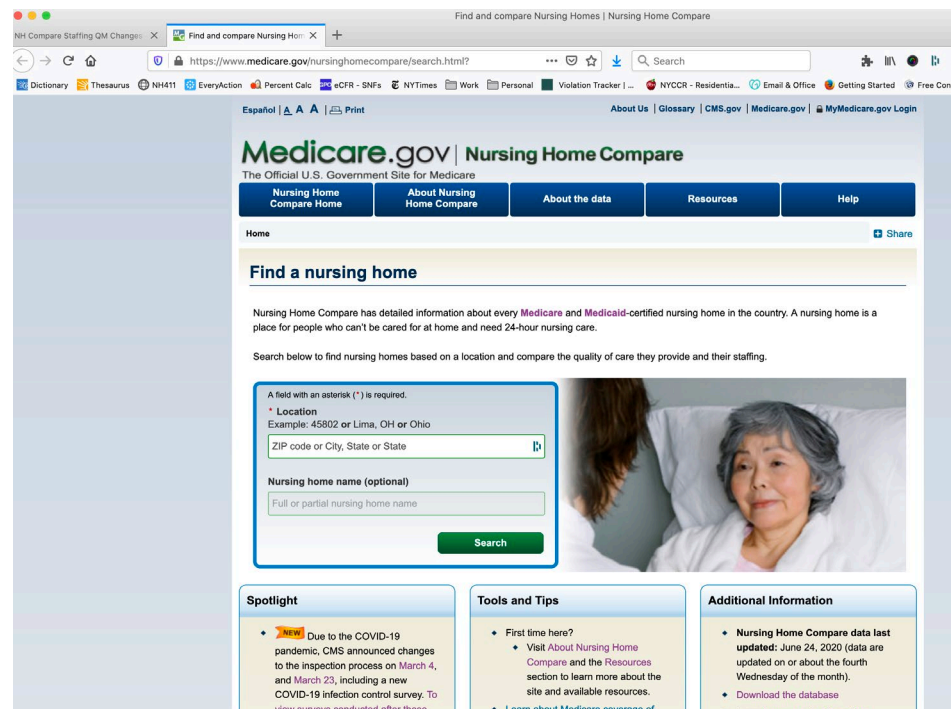
Long Term Care Community Coalition

www.nursinghome411.org



Brief Background

- Nursing Home Compare and the Five Star Quality Rating System provide a variety of information for the public on every nursing home that is licensed under Medicare and Medicaid.
- Though it is not perfect, it is by far the most reliable source for information about a nursing home's quality.
- The star ratings are based on three indicators:
 1. Survey results;
 2. Staffing levels;
 3. Quality measures.





COVID-19 Pandemic Changes

- CMS waived a number of important rules in response to the pandemic, including:
 1. Regular inspections and complaint investigations;
 2. Minimum staff training/certification requirements;
 3. 30-day notice for facility-initiated transfer; and
 4. **Requirements to report daily staffing levels and MDS (Minimum Data Set) “quality measures.”**

- Yesterday (June 25), CMS announced resumption of the reporting requirements (#4 above).
 1. Facilities must submit staffing data for 2020 Q2 by August 14.
 2. Facilities may – but are not required – to submit for 2020 Q1.
 3. NHCompare staffing measures and ratings will be updated in October 2020.
 4. Beginning July 29, 2020, quality measures based on data collection period ending December 31, 2019 will be held constant.
 5. CMS is not holding quality measure ratings constant, as a facility’s quality measure rating can still be updated by a quality measure with underlying data that is earlier than December 31, 2019.

<https://www.cms.gov/files/document/qso-20-34-nh.pdf>



Consumer Perspectives & Concerns

- We are glad to hear that the requirement will be reinstated.
- However, we are extremely concerned about nursing homes being given a permanent holiday on reporting their payroll-based staffing data and other measures during the first several months of the pandemic.
- Without this vital information, we will never know what happened in our nursing homes during crucial, horrific months of the pandemic.
- In addition, as a result, we will be significantly hobbled in being able to address a second wave or other emergency situation in the future.

In addition to concerns about the availability of important information, we are all very concerned by the blockade on family and ombudsman visitation, the continued absence of regular surveys and complaint investigations, relaxed staff certification requirements, and freedom to discharge residents without notice or due process.



Resources @ www.nursinghome411.org

LONG TERM CARE COMMUNITY COALITION
Advancing Quality, Dignity & Justice

- Who We Are >
- Learning Center >
- Nursing Home Data & Info >**
- News & Reports >
- LTC in NY State >

Nursing Home Data & Information

Home / Nursing Home Data & Information

Facility Level COVID Data

Select the button below to access a user-friendly excel file with facility level COVID-19 nursing home data from the Centers for Medicare & Medicaid Services (CMS). Visit CMS's COVID-19 Nursing Home Data page for [...]

[NURSING HOME STAFFING](#)

[NURSING HOME ENFORCEMENT](#)

[DEMENTIA CARE & ANTIPSYCHOTIC DRUGGING](#)

[OTHER INFORMATION & DATA ON NURSING HOME QUALITY](#)

[MAPPING INFORMATION ON NURSING HOME STAFFING & QUALITY](#)

Nursing Home Information, Other Nursing Home Info [Read More >](#)

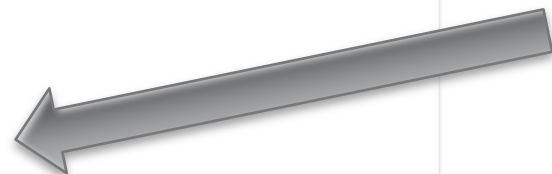
State Nursing Home COVID-19 Data (June 1, 2020)

Other Nursing Home Info [Read More >](#)

Nursing Home Update: Too Many Facilities Severely Understaffed Before COVID-19

Media Alerts, News & Reports, Nursing Home Information, Staffing [Read More >](#)

Nursing Home Staffing 2019 Q4





The National

CONSUMER VOICE

for Quality Long-Term Care

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COMMENTS ON §483.80 (G)

COVID-19 Reporting

<https://www.federalregister.gov/documents/2020/05/08/2020-09608/medicare-and-medicaid-programs-basic-health-program-and-exchanges-additional-policy-and-regulatory>

§ 483.80 Infection control.

(g) *COVID-19 Reporting.* The facility must—

- (1) Electronically report information about COVID-19 in a standardized format specified by the Secretary. This report must include but is not limited to--
 - (i) Suspected and confirmed COVID-19 infections among residents and staff, including residents previously treated for COVID-19;
 - (ii) Total deaths and COVID-19 deaths among residents and staff;
 - (iii) Personal protective equipment and hand hygiene supplies in the facility;
 - (iv) Ventilator capacity and supplies in the facility;
 - (v) Resident beds and census;
 - (vi) Access to COVID-19 testing while the resident is in the facility;
 - (vii) Staffing shortages; and
 - (viii) Other information specified by the Secretary.
- (2) Provide the information specified in paragraph (g)(1) of this section at a frequency specified by the Secretary, but no less than weekly to the Centers for Disease Control and Prevention's National Healthcare Safety Network. This information will be posted publicly by CMS to support protecting the health and safety of residents, personnel, and the general public.
- (3) Inform residents, their representatives, and families of those residing in facilities by 5 p.m. the next calendar day following the occurrence of either a single confirmed infection of COVID-19, or three or more residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other. This information must—
 - (i) Not include personally identifiable information;
 - (ii) Include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations of the facility will be altered; and
 - (iii) Include any cumulative updates for residents, their representatives, and families at least weekly or by 5 p.m. the next calendar day following the subsequent occurrence of either: each time a confirmed infection of COVID-19 is identified, or whenever three or more residents or staff with new onset of respiratory symptoms occur within 72 hours of each other.

Key Recommendations

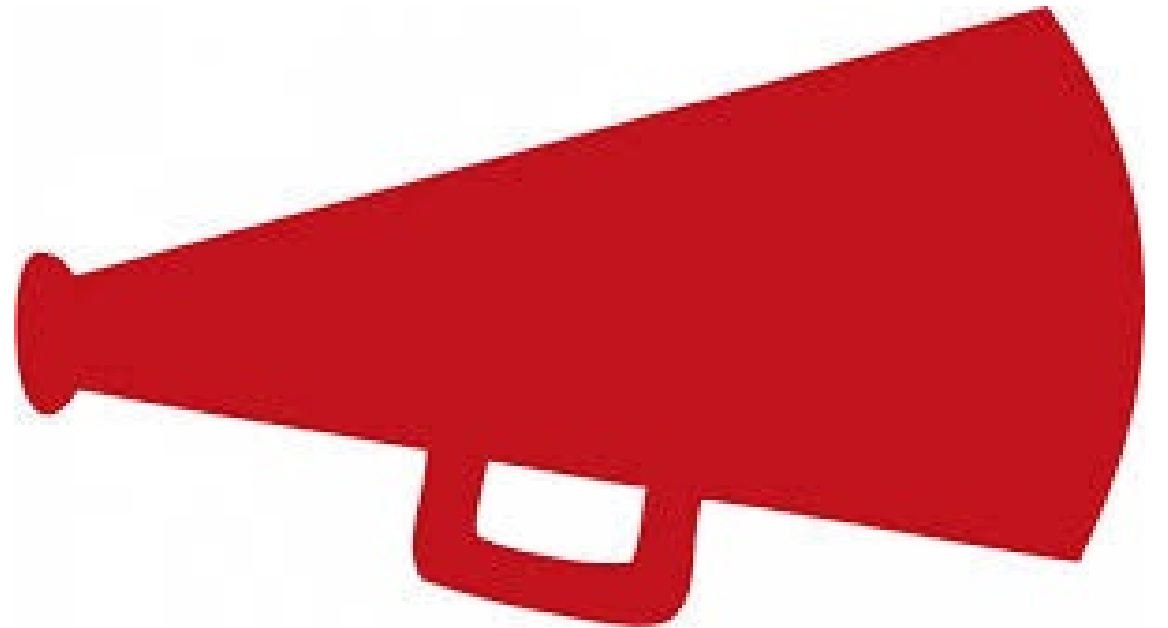
- Collect additional information
- Define and/or clarify certain information
- Simplify some information

Key Recommendations

- The same comprehensive information must be provided to everyone:
 - CDC, CMS, state survey agency, State Long Term Care Ombudsman Program, Protection and Advocacy Agency
- AND**
- Residents, their representatives, their families, and staff!
 - Information must be reported daily
 - Facilities must report on a standardized form
 - Information must be easy to obtain
 - Reporting must be retroactive to January 1, 2020
 - Reporting requirements should be expanded to other institutions and congregate settings

Advocacy Action YOU Can Take

- Submit your own comments
- Look for information from us to help you!





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Reuniting Residents and Families

#ConnectionMatters

OHIO EXPERIENCE

Beverley Laubert, State LTC Ombudsman



Responsible RestartOhio



Assisted Living Facilities & Intermediate Care Facilities for Individuals With Intellectual Disabilities

Mandatory

Facility Guidance

- Visitors should be permitted for outdoor visitation only, so long as all safety standards are met.
- Facilities should consider all implications for resident physical and mental well-being when determining when to allow facility and personal visitation decisions.
- Visitation practices should be developed that include, at a minimum, limiting visits, creating a screening process for visitors, and using sign-in sheets to track visitors.
- Providers should educate residents on the risks of the spread of COVID-19 when interacting with visitors, and the appropriate applicable safety precautions.
- Providers must educate families, friends, and other visitors of the risks of the spread of COVID-19 and the potential health impact for not just their loved one, but all residents of the home.
- Facilities are encouraged to maintain, and in some cases enhance, virtual options to augment visitation. Examples include FaceTime, Skype, and Zoom.
- Each facility can determine how to best implement outdoor visitations for their residents in a way that works best for them.

Outdoor Visitation Best Practices

- Visits must be in accordance with the provider policy (i.e., scheduled, set hours, length of time)
- Family, friends, and other visitors should be screened with temperature taking and symptom
- Everyone should use hand sanitizer.
- Gatherings should be based on the space available to maintain social distancing, including the needed to assist.
- Visits must be in structured settings that are designed to encourage social distancing, and are misuse of wearing of masks (facial coverings) or lack of cooperation with social distancing.

Families, Friends, and Other Visitors

- Visitors must agree to have their temperatures taken, complete a health screening, and wash sanitizer upon arrival.
- Masks (facial coverings) must be worn during each visit.
- Families, friends, and other visitors need to agree to minimize physical contact when possible by the team.
- Any visitation guidelines required by the provider to maintain the health and safety of all residents by all visitors.

Other Facility Types

- Visitation at other similar facilities types, including nursing homes, remains prohibited.

End-of-Life Care

- Considerations for visitors during end-of-life care has been expanded.
- Providers should notify family members several days and up to one week in advance of when condition has occurred and end-of-life is approaching.
- Providers should not wait until active dying to allow visitors.
- This applies to all facility types, including but not limited to, assisted living facilities and nursing homes.

The State Long-Term Care Ombudsman, an office within the Ohio Department of Aging, is a good resource for families and others with loved ones in assisted living facilities during this time. The Ombudsman can be reached at 1-800-282-1206.



Department of Health

Mike DeWine, Governor
Jon Husted, Lt. Governor

Amy Acton, M.D., MPH, Director

DIRECTOR'S ORDER

Re: **Third Amended Director's Order to Limit Access to Ohio's Nursing Homes and Similar Facilities, with Exceptions**

I, Amy Acton, MD, MPH, Director of the Ohio Department of Health (ODH) pursuant to the authority granted to me in R.C. 3701.13 and R.C. Chapter 3721, to prevent the spread of contagious or infectious diseases, hereby order all "Homes" as that term is defined in R.C. 3721.01 and to include Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) ORDER the following:

1. The restrictions set forth in the March 13, 2020 Order remain in effect. Homes must continue to restrict access only to those personnel who are necessary to the operation of the Homes, except as permitted in limited circumstances set forth below. Personnel who are necessary for the operations of the Homes include, but may not be limited to, staff, contracted and emergency healthcare providers, contractors performing critical on-site maintenance, and governmental representatives and regulators and their staff. No visitors of residents shall be admitted to any Home, except for end of life situations as set forth below.

Individuals and personnel must be screened for COVID-19 each time they enter the facility. ODH guidance is available from the U.S. Centers for Disease Control and Prevention and Centers for Medicare and Medicaid Services as well as from ODH. Screening should include question about COVID-19 and assessing the visitors and personnel for cough, shortness of breath, and temperature of 100.4 degrees or higher. This Amended Order does not apply to exigent circumstances, to emergency medical services, first responders and similarly situated individuals.

Homes should attempt to have as few points of entry as possible. ODH recommends that Homes establish a designated entry point. This does not apply to emergency ingress or egress of residents.

Individuals granted access to a Home must produce legal federal or state identification or other verifiable form of identification, or be a person known to the Home. The individuals should provide their contact information with business telephone number and address. It is the responsibility of the Homes to log this information including telephone number and address. The log shall be maintained for at least six months.

When the following modifications are made to the March 13, 2020 Order:

Visitors shall be admitted for end of life situations. For purposes of this Third Amended Director's Order end of life situations are defined as a substantial change of condition indicating end of life is approaching. Providers shall notify family several days and up to one week in advance and shall not wait until active dying. Some indications of end of life include

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The State of Ohio is an Equal Opportunity Employer and Provider of ADA Services.

WEST VIRGINIA EXPERIENCE

Suzanne Messenger, State LTC Ombudsman

WEST VIRGINIA

- Total Population – 1.792 million
- Largest City (Charleston) – 47,215
- 123 Nursing Homes
 - 10,485 licensed beds (8,651 currently occupied)
- Total COVID-19 Cases -2,712
 - 233 NH Residents
 - 167 NH Staff
- Total COVID-19 Deaths - 92
 - 43 NH Residents
 - 0 Staff



Background

- March 12 Governor Justice prohibited visitation at WV nursing homes.
- March 13 CMS issued [guidance](#) on the restriction of nonessential medical staff and all visitors except in certain limited situations.
- April 17 Governor Justice orders testing of all nursing home residents/staff.
- May 6 Governor Justice orders testing of all assisted living residents/staff.
- On May 18, 2020 CMS issued a recommendations memo to states [QSO-20-30-NH](#) outlining factors to be considered in making the decision to open nursing homes again.
- June 11 Governor Justice announced that beginning on June 17, 2020, visitation at nursing homes may resume at facilities that have had **no cases of COVID-19 for the fourteen consecutive day period immediately preceding June 17, 2020 (i.e., since June 3, 2020)**, using a general framework provided in [Nursing Home COVID-19 Reopening Plan](#) and [Nursing Home & Assisted Living Reopening Plan FAQs](#)

Phase Red

Active COVID-19 positive residents or positive residents within the last 14 days.

Screening	<ul style="list-style-type: none">• Screen 100% of all persons entering the facility• Screen 100% of residents at least daily
Visitation	<ul style="list-style-type: none">• Compassionate care only
Non-essential personnel	<ul style="list-style-type: none">• No non-essential personnel
Trips outside the facility	<ul style="list-style-type: none">• Only medically necessary trips outside of facility
Communal dining	<ul style="list-style-type: none">• No communal dining
Group activities	<ul style="list-style-type: none">• No group activities

Phase Yellow

Facilities with no COVID-19 positives, and/or no substantial community spread for the immediately preceding 14 days, beginning no sooner than June 17, 2020.

Screening	<ul style="list-style-type: none">• Screen 100% of all persons entering the facility• Screen 100% of residents at least daily
Limited Visitation	<ul style="list-style-type: none">• No more than two visitors allowed at the same time, by appointment only• Visits must take place in a facility-designated location• Time limitations may be imposed at facility's reasonable discretion• No visitors under 12 years old• Visitors must wear face covering at a minimum, maintain 6 ft. social distancing, and use proper hand hygiene
Non-essential personnel	<ul style="list-style-type: none">• Non-essential healthcare and other personnel and contractors may be allowed as determined necessary by the facility• Must maintain 6 ft. social distancing, use proper hand hygiene, and wear face covering
Trips outside the facility	<ul style="list-style-type: none">• Only medically necessary trips outside the facility

Phase Yellow

Facilities with no COVID-19 positives, and/or no substantial community spread for the immediately preceding 14 days, beginning no sooner than June 17, 2020.

Communal dining	<ul style="list-style-type: none">• Communal dining allowed if 6 ft. social distancing can be maintained• Proper hand hygiene must be used by residents• Residents must wear face covering, as tolerated, to and from the dining area
Group activities and therapy	<ul style="list-style-type: none">• Group activities and therapy allowed if 6 ft. social distancing can be maintained• No more than 10:1 ratio, resident to staff• Group activities and therapy must take place in a facility-designated location• Proper hand hygiene must be used by residents• Residents must wear face covering, as tolerated, to and from the activity or therapy
Salon services	<ul style="list-style-type: none">• Beauticians and manicurists can provide services to residents if the safety guidelines required for hair salons, nail salons, and barber shops, as applicable, can be maintained.

Phase Green

Facilities that have progressed 14 consecutive days under Phase Yellow with no COVID-19 positives and no substantial community spread.

Screening	<ul style="list-style-type: none">• Screen 100% of all persons entering the facility• Screen 100% of residents at least daily
Visitation	<ul style="list-style-type: none">• Number and age of visitors allowed to be determined by facility• Visitation by appointment only• Visits must take place in a facility-designated location• Time limitations may be imposed at facility's discretion• Visitors must wear face covering at minimum and use appropriate hand hygiene
Non-essential personnel	<ul style="list-style-type: none">• Non-essential personnel and contractors allowed in the facility• Must maintain 6 ft. social distancing, use proper hand hygiene and wear face covering
Trips outside the facility	<ul style="list-style-type: none">• Only medically necessary trips outside the facility

Phase Green

Facilities that have progressed 14 consecutive days under Phase Yellow with no COVID-19 positives and no substantial community spread.

Communal dining	<ul style="list-style-type: none">• Communal dining allowed if 6 ft. social distancing can be maintained• Proper hand hygiene must be used by residents• Residents must wear face covering, as tolerated, to and from the dining area
Group activities	<ul style="list-style-type: none">• Group activities allowed if 6 ft. social distancing can be maintained• Proper hand hygiene must be used by residents• Residents must wear face covering, as tolerated, to and from the activity or therapy
Salon services	<ul style="list-style-type: none">• Beauticians and manicurists can provide services to residents if the safety guidelines required by hair salons, nail salons, and barber shops, as applicable, can be maintained

Phase Blue

At any time during Phase Yellow or Phase Green, if two or more residents test positive, or if it is determined that there is substantial community spread as defined by the Bureau for Public Health.

Screening	<ul style="list-style-type: none">• Screen 100% of all persons entering the facility• Screen 100% of residents at least daily
Visitation	<ul style="list-style-type: none">• Compassionate care only
Non-essential personnel	<ul style="list-style-type: none">• Non-essential healthcare personnel, including medical providers, allowed in the facility• Facilities may allow other non-essential personnel if they will not be entering any direct care areas
Trips outside the facility	<ul style="list-style-type: none">• Only medically necessary trips outside of facility

Phase Blue

At any time during Phase Yellow or Phase Green, if two or more residents test positive, or if it is determined that there is substantial community spread as defined by the Bureau for Public Health.

Limited communal dining	<ul style="list-style-type: none">• Limited communal dining based on medical necessity• 6 ft. social distancing must be maintained• Proper hand hygiene must be used by residents• Residents must wear face covering, as tolerated, to and from the dining area.
Limited group activities and therapy	<ul style="list-style-type: none">• Limited group activities and therapy allowed if 6 ft. social distancing can be maintained• Group activities and therapy must take place in a facility-designated location• Proper hand hygiene must be used by residents• Residents must wear face covering, as tolerated, to and from the activity or therapy
Limited salon services	<ul style="list-style-type: none">• Beauticians and manicurists can provide services to residents on a limited basis if the safety guidelines required for hair salons, nail salons, and barber shops, as applicable, can be maintained.

CHALLENGES

- Strict Interpretation of “compassionate care”
- Process vs. impact of “reopening”
 - What is a “visit”?
- Life vs. safety



Suzanne Messenger

State Long-term Care Ombudsman

Suzanne.e.messenger@wv.gov

304-816-3151

CMS Reopening-Visitation Guidance

- **QSO-20-30-NH** (May 18, 2020) + FAQs
 - 3 Phases of “Reopening”
 - Phase 1 – visitation restricted except for compassionate care
 - Phase 2 – visitation restricted except for compassionate care
 - Phase 3 – visitation allowed with screening and precautions
 - Factors to Inform Reopening Decision-Making:
 - Case status in community
 - Case status in the nursing home
 - Adequate staffing – no shortages, no contingency staffing plan
 - Access to adequate testing – baseline and ongoing testing plan
 - Universal source control – face coverings or masks, social distancing, handwashing/sanitizing
 - Access to adequate Personal Protective Equipment (PPE)
 - Local hospital capacity

New FAQs – June 23, 2020

- **Encourages “creative means” of connecting residents and families – such as outside visits**
 - With screening and precautions
 - Items in visitation spaces routinely cleaned and disinfected
 - Limit the number and size of visits, number of individuals visiting any one resident

FAQs - Communal Activities

	Residents without COVID	Residents w COVID or symptoms
Eat in the same room w social distancing <ul style="list-style-type: none">• Limited people at tables• 6 feet between tables	Yes	No
Group activities <ul style="list-style-type: none">• Social distancing among residents• Hand hygiene• Face coverings or facemasks <p>Ex. Bingo, Book Club, Movies, Crafts</p>	Yes	No

FAQs - Compassionate Care

- Does not exclusively refer to end of life situations
- CMS believes these visits should not be routine; should be limited
- CMS encourages consultation with state leadership, families, ombudsman to help determine if a visit should be conducted for compassionate care
- All screening and precautions should be taken
- Nursing homes can create “safe spaces” within the facility
- Consider setting appointment times
- Limit the number of visitors allowed in the building at one time, and number visiting with any one resident

FAQs - Access to LTC Ombudsman

- Residents have the right to access to the ombudsman
- If in-person not available, facilities must facilitate resident communication with the ombudsman

FAQs - Discharge Waivers

- Only apply to cohorting residents to prevent COVID-19 spread
- “For all non-cohorting discharges, facilities must comply with all discharge requirements” – including notification and reasons in a manner and language they understand, and notice to the ombudsman

SOCIAL MEDIA CAMPAIGN

Mike Dark, CANHR

Resources

<https://theconsumervoice.org/issues/other-issues-and-resources/covid-19>

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Specialized Information for:

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Learn About Recent Guidance

COVID-19:
How to Protect Yourself and Your Loved Ones

As the novel coronavirus 2019 (COVID-19) outbreak continues to evolve, it is important for long-term care consumers, family members, Ombudsman programs and other advocates to be informed and take precautions in order to prevent the spread.

[Learn More](#)





Share Your Story

Tell us about your, or your loved one's,
experiences with your long-term care facility
during COVID-19.

www.theconsumervoice.org

QA



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