

COVID-19: News, Review, and Resources

Presented by

Richard Mollot & Eric Goldwein

Long Term Care Community Coalition

www.nursinghome411.org

This program is made possible by the generous support of the NY State Health Foundation

+ What is the Long Term Care Community Coalition?

- **LTCCC**: Nonprofit organization dedicated to improving care & quality of life for the elderly & adult disabled in long-term care (LTC). Home to two local LTC Ombudsman Programs in NY.
- **Our focus**: People who live in nursing homes & assisted living.
- **What we do**:
 - Policy analysis and systems advocacy in NYS & nationally;
 - Education of consumers and families, LTC Ombudsmen and other stakeholders.
- **Eric Goldwein**: LTCCC's Policy & Communications Director. Joined LTCCC in 2019.
- **Richard Mollot**: LTCCC's Executive Director. Joined LTCCC in 2002.
- **Website**: www.nursinghome411.org.



+ What Will We Be Talking About TODAY?

- Update on state & federal actions to address the pandemic.
- Research on COVID-19 in LTC facilities.
- Review of various policy proposals.
- Resources @ www.nursinghome411.org.



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Current State and Federal Actions to Address the Pandemic

+ COVID-19 Pandemic Changes - Federal

Starting in March, the federal Centers for Medicare and Medicaid Services (CMS) instituted a number of changes to address the pandemic, including:

- **Visitation.**
 - ▶ No family or ombudsman visitation for several months.
 - ▶ Recently provided recommendations for state-based reopening of facilities.
- **Reimbursement.** High payment for COVID-19 residents & relaxation of Medicare benefit limits.
- **Testing.** Payment for COVID-19 testing.
- **Waiver of a number of important rules** in response to the pandemic, including:
 - ▶ Minimum staff training/certification requirements;
 - ▶ 30-day notice for facility-initiated transfer; and
 - ▶ Requirements to report daily staffing levels and MDS (Minimum Data Set) “quality measures.”

+ COVID-19 Pandemic Changes - Federal

- **Reporting** (May 2020). Nursing homes required to report cases, deaths, PPE supplies, staffing sufficiency, and more to CDC.
- **Oversight**
 - ▶ March: CMS limited surveys to infection control and immediate jeopardy.
 - ▶ June:
 1. CMS requires surveys for infection control of all facilities under penalty of reduces state agency CARES Act \$\$\$.
 2. Requires add'l COVID-19 surveys for facilities with high number of cases/deaths.
 3. Allows states to resume normal surveys in Phase 3 of nursing home reopening guidance.
 4. Provides enhanced enforcement for infection control deficiencies.

+ COVID-19 Pandemic Changes - States

States have undertaken a variety of responses to the pandemic:

- **Legal immunity.** About 20 states have granted immunity to nursing homes for virtually any substandard care or neglect.
- **Reporting.** Prior to May, many states reported a range of information related to the spread of COVID-19 in nursing homes and adult care facilities to the public.
- **Testing.** States have varying policies on requirements for testing both residents and staff.
- **Visitation.** States have adopted varying policies on visitation, both inside and outdoors, based on COVID-19 cases in the facilities and surrounding communities.

1. **Consumer Voice: State COVID-19 Nursing Home Policies.**
<https://theconsumervoice.org/state-information>
2. **LTCCC: Let Our People In: A Blueprint for Restoring Residents' Rights to Visitation and Care.**
<https://nursinghome411.org/nursing-home-covid-visitation/>

+ Consumer Perspectives & Concerns

The Good

- CMS recently reinstated staff reporting.

The Bad

- 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.
- Continued blockade on family and ombudsman visitation throughout the country.
- Continued absence of regular surveys and complaint investigations.
- Relaxed staff certification requirements.
- Nursing homes are free to discharge residents without notice or due process.



+ Research on COVID-19 in LTC Facilities

Case/fatality data, risk factors, and more

+ A disaster waiting to happen



LTC Facilities

- Poor care
- Lax enforcement
- Vulnerable population
- Poor state/federal response

COVID-19

- Deadly
- Contagious
- Lack of treatment/vaccine
- Moving target



— A patient is loaded into an ambulance at Andover Subacute and Rehabilitation Center in Andover, N.J., on April 16, 2020.
 Stefan Jurenschik / Reuters file

+ Summary Data: COVID-19 in LTC Facilities

- Kaiser Family Foundation (July 9)
 - **284,000** COVID-19 cases (resident and staff) in **11,644** U.S. LTC facilities
 - **56,000** deaths (44% of overall COVID-19 deaths)
- CMS (June 28)
 - **200,000** confirmed + suspected cases
 - **36,000** deaths
 - Significant state and regional variation in cases/fatalities
- NY DOH (July 13)
 - **6,489** deaths in New York state (97% in nursing homes, 3% adult care facilities)



CAUTION! Take data with a grain of salt.

- Underreporting
- Data entry errors
- It's not just cases & fatalities
 - Isolation, abuse, neglect, substandard care, etc.

+ Risk factors for COVID-19 in LTC facilities



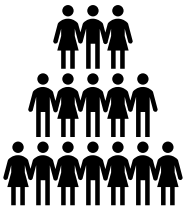
- Staffing
 - Total and RN staffing hours per resident per day (HPRD)



- Star ratings
 - Facility's star rating (1-5)



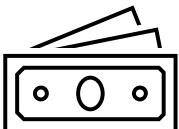
- Deficiencies
 - Health inspection and Infection control citations



- Race and socioeconomic status
 - Race/ethnicity
 - Medicaid/Medicare



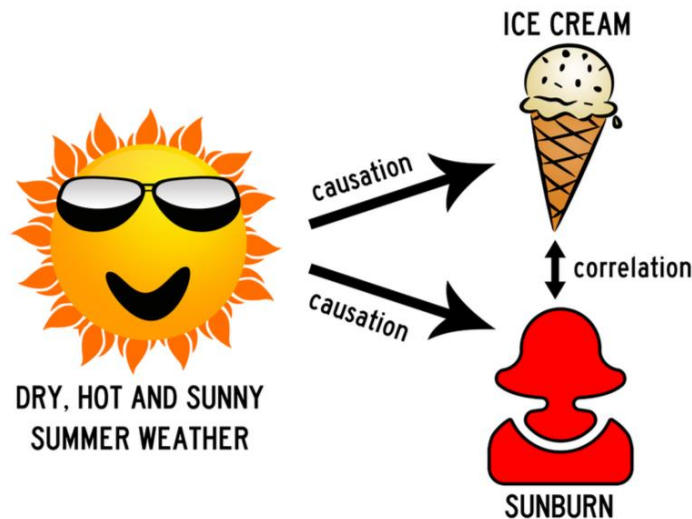
- Facility size and ownership
 - Beds
 - For-profit vs. non-profit



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Important Statistics Reminder

Association \neq Correlation



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Staffing

Better staffing → Better care

- In California, facilities with COVID-19 cases were more likely to be understaffed (Harrington)
 - Worse outcomes for facilities with < 4.10 total staffing HPRD and < 0.75 RN HPRD
- In Connecticut, more RN staffing was associated with fewer COVID-19 deaths (Li)



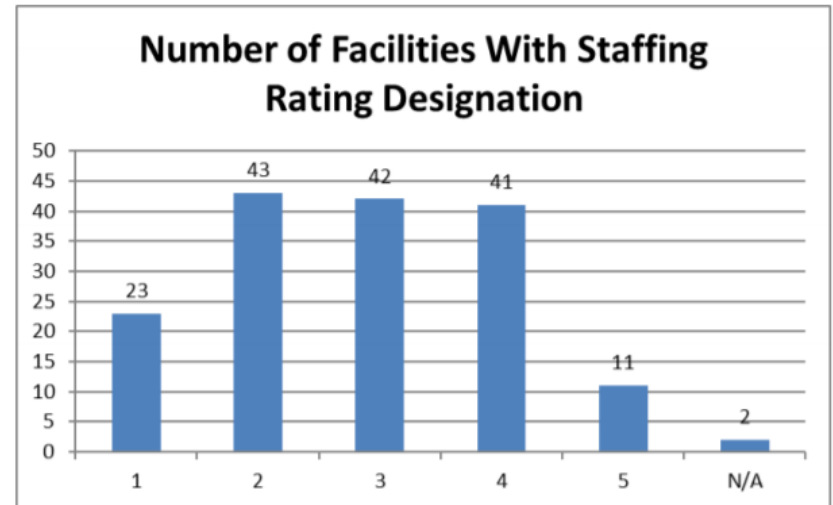
STAFFING FAST FACTS

- HPRD = **H**ours **P**er **R**esident **D**ay
- RN = **R**egistered **N**urse
- LPN = **L**icensed **P**ractical **N**urse
- A landmark 2001 federal study identified **4.10** total staff HPRD and **0.75** RN HPRD as the minimum required to meet residents' needs



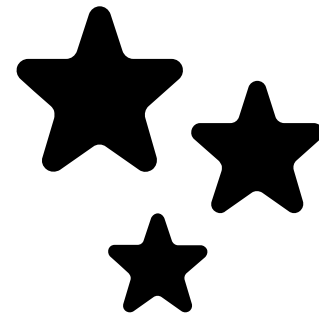
Infection Control and Health Deficiencies

- Better staffing ratings associated with fewer infection control deficiencies and lower total health deficiencies (Harrington)
- Lower staffed facilities twice as likely to receive infection control deficiency citation as highest staffed facilities (Center for Medicare Advocacy)
- Kaiser Health News: “Many 5-Star Nursing Homes Have Infection-Control Lapses” (Rau)



Center for Medicare Advocacy

+ Overall Star Ratings



COVID-19 and Star Ratings: Mixed Results

- Li: Among facilities with at least one case, 4- or 5-star facilities were less likely to have confirmed cases vs. 1-3 star facilities
- Abrams: Ratings not significantly related to COVID-19 cases
- NY Department of Health: No evidence that ratings were related to fatalities in New York facilities.

Star Ratings Explainer

- 1 = BAD. 5 = (Sometimes) Good.
- Based on health inspections, staffing, and quality measures
- LIMITATIONS:
 - ‘Better at identifying problem facilities than potentially good homes’ (Phillips)
 - Boosted by quality measures (primarily self-reported)



Race and Socioeconomic Status

- Higher concentration of Medicaid residents or racial/ethnic minority residents → more confirmed cases (Li)
 - “Early data suggested less social distancing in lower-income neighborhoods possibly due to the lack of job security and other disadvantages, and higher COVID-19 contraction rate among racial minorities”
- Prior research has found worse outcomes in facilities with higher concentration of racial/ethnic minorities (Li & Harrington)
- Majority black and Latino facilities twice as likely to be hit by COVID-19 compared to overwhelmingly white facilities (Gebeloff, New York Times)
- Facilities with high percentage of African American residents more likely to have COVID-19 case (Abrams)

The Striking Racial Divide in How Covid-19 Has Hit Nursing Homes

Homes with a significant number of black and Latino residents have been twice as likely to be hit by the coronavirus as those where the population is overwhelmingly white.

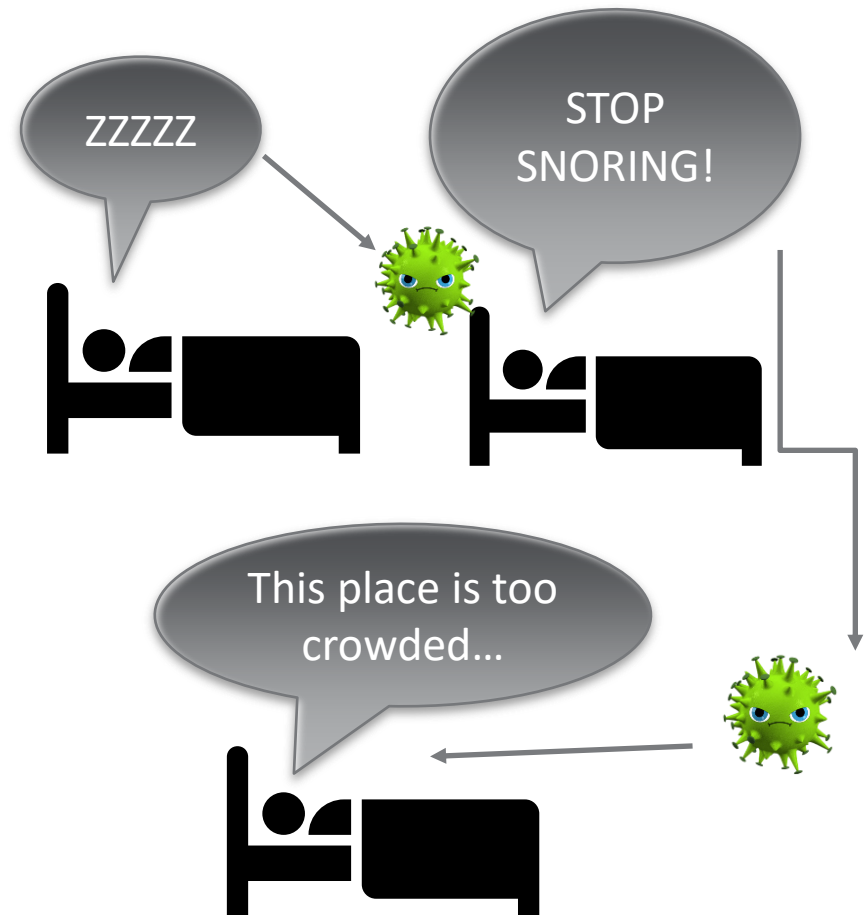


Bria of Belleville, a rehabilitation and skilled nursing facility in Belleville, Ill. Whitney Curtis for The New York Times

New York Times

+ Facility Size and Ownership Status

- Does facility size matter?
 - Larger facility size, urban location associated with higher cases (Abrams)
 - “Nursing homes with more confirmed cases or deaths were also more likely to be large, for-profit facilities affiliated with a chain and having a higher resident census” (Li)
- Ownership status: Mixed findings
 - Studies found varying results regarding association between for-profit status and COVID-19 cases



+ Implications for Policy & Practice

- **More staffing!!!!**
 - Especially RNs
- Stronger enforcement of staffing standards
- Stronger enforcement of infection control
- Address disparities faced by Medicaid and racial & ethnic minorities



References

- Abrams, Hannah et al. Characteristics of U.S. Nursing Homes with COVID-19 Cases <https://onlinelibrary.wiley.com/doi/10.1111/jgs.16661>
- Center For Medicare Advocacy: Nursing Homes Cited with Infection Control Deficiencies during the Pandemic: Poor Results In Health Inspections, Low Staffing Levels <https://medicareadvocacy.org/wp-content/uploads/2020/06/Coronavirus-Report-Infection-Control-Deficiencies-NHC.pdf>
- CMS: COVID-19 Nursing Home Data <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg>
- Gebeloff, Robert. et al. (New York Times) The Striking Racial Divide in How Covid-19 Has Hit Nursing Homes <https://www.nytimes.com/article/coronavirus-nursing-homes-racial-disparity.html>
- Harrington, Charlene, et al., Nurse Staffing and Coronavirus Infections in California Nursing Homes <https://journals.sagepub.com/doi/full/10.1177/1527154420938707>
- Kaiser Family Foundation: State Data and Policy Actions to Address Coronavirus <https://www.kff.org/health-costs/issue-brief/state-data-and-policy-actions-to-address-coronavirus/>
- Li, Yue, et al., COVID -19 infections and deaths among Connecticut nursing home residents: facility correlates <https://onlinelibrary.wiley.com/doi/abs/10.1111/jgs.16689>
- Li & Harrington, Deficiencies In Care At Nursing Homes And Racial/Ethnic Disparities Across Homes Fell, 2006–11 <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2015.0094>
- New York Department of Health: LTC fatality data <https://nursinghome411.org/ny-nursinghome-covid-data/>
- New York Department of Health : Factors Associated with Nursing Home Infections and Fatalities in New York State During the COVID-19 Global Health Crisis https://health.ny.gov/press/releases/2020/docs/nh_factors_report.pdf
- Phillips, Charles et al., “Where should Momma go? Current nursing home performance measurement strategies and a less ambitious approach” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1920506/>
- Rau, Jordan (Kaiser Health News): COVID-Plagued California Nursing Homes Often Had Problems In Past <https://khn.org/news/covid-plagued-california-nursing-homes-often-had-problems-in-past/>



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Policy Proposals

Funding, immunity, accountability,
visitation, and more



KEY COVID-19 POLICY TOPICS

COVID-19 Emergency Support

- Funding & Training
- PPE
- Strike Teams

Immunity

- Protecting facilities from litigation

Accountability & Transparency

- Surveys
- Staffing Data
- Medical Loss Ratio

Visitation

- Virtual
- In Person



Key COVID-19 Bills

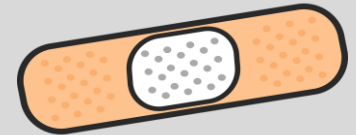


- Quality Care for Nursing Home Residents and Workers During COVID-19 Act (H.R. 6698)
- Quality Care for Nursing Home Residents Act of 2019 (H.R. 5216 and S. 2943)
- S.3768 - Nursing Home COVID-19 Protection and Prevention Act of 2020
- Coronavirus Provider Protection Act (HR 7509)
- The Get America Back to Work Act (HR 7528)
- ERN20523 - Elder Justice Reauthorization Act of 2020

+ COVID-19 Funding



+ COVID-19 FUNDING



+ COVID-19 Funding

Proposal

1. Funding. To date, the US gov't has given facility billions in supplemental funds, often with "no strings attached." Current proposals (7/21/20) call for more direct support + add'l money to support training and provision of supplies.
2. Strike Teams.
3. PPE & Testing. Federal government has provided some PPE to facilities and is now rolling out free testing equipment. Several bills call for additional federal supports.

LTCCC Position

1. Any funding to nursing homes must have strings attached to ensure that it goes to resident care, not profits. Money and resources should not be spent on training and assistance to help facilities meet the standards they are already paid to achieve.
2. Important to help residents, but must include accountability and assurance that facility is stable.
3. We support ensuring that facility staff, residents, visitors, state surveyors, and LTC ombudsmen have access to PPE & testing.

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COVID-19 Funding: Bottom Line



- It is a mistake to simply give nursing homes more money for a job poorly done.
- Doing so only reinforces and perpetuates a system in which nursing homes get paid for insufficient staffing, inadequate training, and (too often!) deadly failures to even maintain effective infection control protocols.

+ COVID-19 Litigation Immunity

- The Get America Back to Work Act (HR 7528)

“To limit the civil liability of persons for the spread or possible transmission of SARS–COV–2 caused by an act or omission while acting in good faith during the COVID–19 emergency period, and for other purposes”

- Coronavirus Provider Protection Act (HR 7509)

“To provide for liability protection for health care providers for damages with respect to any harm caused by any act or omission of such health care professional or related health care entity in the course of arranging for or providing health care services during the COVID–19 public health emergency period, and for other purposes.”



+ COVID-19 Accountability & Transparency

■ Oversight.

- ▶ Require HHS to collect and publish data on COVID-19 cases and deaths in nursing homes, intermediate care facilities and psychiatric hospitals and to issue a report analyzing the characteristics of facilities with COVID-19 outbreaks and deaths.
- ▶ Establish essential and ongoing oversight, including monthly briefings for Congress and an Office of the Inspector General (OIG) report on the Administration's response to the spread of COVID-19 in nursing homes, intermediate care facilities and psychiatric hospitals nationwide.

■ Staffing & Other Nursing Home Data. Require facilities to provide data from January 1, 2020.

■ Medical Loss Ratio (MLR).

- ▶ Place a cap on the amount of money that a nursing home may use to pay for non-health care expenses, freeing money for hiring additional staff and improving resident care.
- ▶ Federal law already places an MLR on health insurance companies under the Affordable Care Act, requiring them to spend at least 80 to 85% of premium dollars on medical care.

+ Visitation Proposals

■ Advocates' Proposals

- ▶ LTCCC: Blueprint for Restoring Residents' Rights to Visitation and Care
- ▶ CANHR: <https://visitationsaveslives.com/>

■ Congressional Proposals

- ▶ Establish a grant program authorizing HHS to issue specific guidance and award nursing facilities grants that enable residents to participate in “virtual visits” with loved ones while the health risk of in-person visits remains high during the pandemic.
- ▶ Virtual visitation must be made available and facilitated on a regular basis as a safety measure between residents and their families. Connecting virtually is also essential to the health and wellbeing of residents, including protecting against social isolation.



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LTCCC's Resources

+ Coronavirus Resource Center

NURSINGHOME411.ORG/CORONAVIRUS/

Select tabs to access
different materials

COVID-19 Resources

Data

News & Reports

Federal Guidance/Requirements

Federal

FACILITY LEVEL COVID DATA (06/04/2020)

NURSING HOME STAFFING (Q4 2019)

STATE LEVEL COVID DATA (06/01/20)

NURSING HOME PROVIDER INFO (APRIL 2020)

INFECTION CONTROL & PREVENTION CITATIONS

Other

NEW YORK STATE LTC COVID FATALITIES (06/08/20)

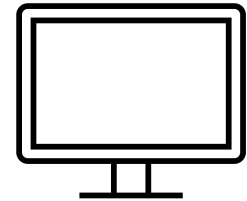
KFF: STATE DATA AND POLICY ACTIONS TO ADDRESS CORONAVIRUS

JOHNS HOPKINS UNIVERSITY CORONAVIRUS RESOURCE CENTER

+ Coronavirus Resource Center

RESOURCES

- Webinars (nursinghome411.org/learning-center/ltccc-webinars)
 - Identifying and Addressing Nursing Home Abuse & Neglect
 - Understanding & Advocating for Residents With Dementia
 - Promising Practices & Recommendations for Evaluating Nursing Home Owners
- LTCCC's Nursing Home 411 Podcast (nursinghome411.org/podcast)
 - 'The Eyes, Ears, and Voice': Why Nursing Home Visitation Saves Lives
 - The Perils of Privatization with Dr. Charlene Harrington
 - COVID-19 Litigation Immunity Implications with attorney Will Smith
- Fact Sheets
 - Infection Control
 - Stimulus Checks (Center for Elder Law & Justice)



+ New Fact Sheet: NH Care & the Coronavirus

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

NURSING HOME CARE & THE CORONAVIRUS:

THIS IS NOT THE TIME TO NEGLECT CRITICAL SAFETY STANDARDS

The coronavirus has exposed serious, widespread failures in nursing home safety and oversight. Recent reporting indicates that more than 60 percent of nursing homes have been cited for one or more infection control violations in the last several years. Most nursing homes do not maintain sufficient staff to meet the basic clinical needs of their residents.

As our healthcare system rushes to deal with the pandemic, and many nursing homes rush to address gaps in their infection prevention and other safety practices, it is important to remember that residents continue to have rights and protections guaranteed by federal law that extend beyond infection control. Many of these rights are crucial to the safety and well-being of residents. **Following are a few of the standards of care that we have identified as important, especially at this time:**

Respect & Dignity [\(Fact Sheet\)](#)

- Every resident has the right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the nursing home.
- Every nursing home must provide residents equal access to care, regardless of the resident's diagnosis, severity of the resident's condition, or resident's payment source.

Sufficient Staffing [\(Fact Sheet\)](#)

- Every nursing home must have sufficient nursing staff with the competencies and skills necessary to ensure residents are able to attain or maintain their highest practicable physical, mental, and psychosocial well-being.
- There must be a sufficient number of both licensed nurses and nurse aides on a 24-hour basis.
- Nursing homes must have a registered nurse on duty for at least 8 hours a day, 7 days a week.

Pressure Ulcers [\(Fact Sheet\)](#)

- Every resident must receive care to prevent pressure ulcers from developing, unless clinically unavoidable.
- Every resident with a pressure ulcer must be provided the treatments and services necessary to promote healing, prevent infections, and prevent new pressure ulcers from developing.

Physical & Chemical Restraints [\(Fact Sheet\)](#)

- Every resident has the right to be free from physical or chemical restraints imposed for the purposes of discipline or the convenience of staff.

Dementia Care [\(Fact Sheet\)](#)

- Every nursing home must ensure that residents are not given a psychotropic drug unless it is necessary to treat a specific condition that has been diagnosed and documented in the resident's record.
- Residents who are being administered psychotropic drugs must receive gradual dose reductions and behavioral interventions to discontinue use (unless medically inappropriate).

Care Planning [\(Fact Sheet\)](#)

- Every nursing home must develop and implement a baseline care plan for each resident within 48-hours of admission. The baseline care plan must be person-centered and include the minimum health care information necessary to properly care for the resident.
- Every nursing home must develop a comprehensive care plan within 7 days of completing the comprehensive assessment (but no more than 21 days after admission). The comprehensive care plan must include measurable objectives and timeframes for meeting each resident's individualized medical, nursing, mental, and psychosocial needs.

Informed Consent [\(Fact Sheet\)](#)

- Every resident has the right to be informed of, and participate in, his or her treatment. Residents have the right to be informed, in advance, of the risks and benefits of proposed care, as well as treatment alternatives or treatment options, and to choose preferred alternatives or options. Residents have the right to refuse or discontinue treatments.
- Every resident has the right to identify individuals or roles to be included in his or her care plan, the right to request care planning meetings, and the right to request revisions to the care plan.

Transfers & Discharges [\(Fact Sheet\)](#)

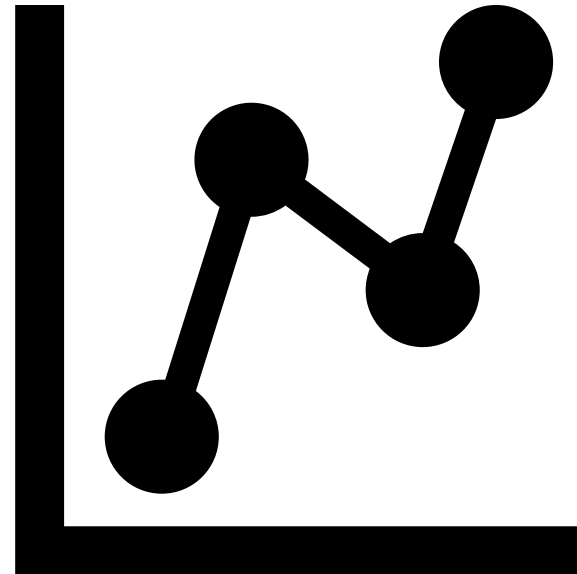
- Every nursing home is prohibited from transferring or discharging residents against their will except under very limited circumstances, such as when the welfare of the resident or other residents is at serious risk and when the resident no longer needs nursing home care.
- Even when these limited exceptions have been met, nursing homes must still meet notice requirements, adhere to appeal rights, and follow preparation and orientation requirements.

Note: CMS has temporarily [waived](#) some aspects of the transfer & discharge standards. These waivers only apply when the transfer/discharge are for the purpose of cohorting residents in response to the COVID-19 pandemic.

For more information on the pandemic and its impact on nursing home and adult care facility residents, visit LTCCC's [Coronavirus Resources](#) webpage. For more information on residents' rights and protections, please visit our homepage: www.NursingHome411.org.

DATA

- COVID-19 Cases & Fatalities
 - Facility Level
 - State Level
 - New York
- Staffing
- Provider Info
- Infection Control & Citations



NEWS & REPORTS

- LTCCC's Blueprint for Restoring Visitation Rights
- LTCCC'S Emergency Action Plan for NY State
- LTCCC's New York Times Op-Ed
- Infection Control Issue Alert

Opinion

Nursing Homes Were a Disaster Waiting to Happen

Long before Covid-19, poor care and lax standards were widespread and well known.

By Richard Mollot

Mr. Mollot is the executive director of the Long Term Care Community Coalition.

April 28, 2020



+ Coronavirus Resource Center

FEDERAL GUIDANCE & REQUIREMENTS

- CMS FAQ on Nursing Home Visitation
- CMS Reopening recommendations
 - Case status in community & facility
 - Staffing
 - Testing
 - PPE
 - Local hospital capacity
- Survey & Enforcement Memo
 - Corrective action plan for facilities without infection control surveys
 - On-site surveys for select facilities
- CDC Fact Sheets and resources





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Email info@ltccc.org or call **212-385-0355** if you would like to...

Receive alerts for future programs or sign up for our newsletters.

Next Program: August 18th at 1pm.

Topic: Reimagining Nursing Home Care

You can also...

- Join us on **Facebook** at www.facebook.com/ltccc.
- Follow us on **Twitter** at www.twitter.com/LTCconsumer.
- Visit us on the **Web** at www.nursinghome411.org.
- LTC Ombudsmen: If your program supervisor allows credit for attending this training program, please take the quick survey at: <https://www.surveymonkey.com/r/ltccc-ltccop1>.



Questions?

Comments?