

## Nursing Homes and Long-Term Care Facilities: The Next Front Line

By: Stephen J. Milewski, Kevin C. Cottone and Roopa Sabesan

*Healthcare Alert*

4.9.20

The novel coronavirus (COVID-19) took the world by storm, making its way across the globe at an unprecedented speed and forcing policymakers to take quick and aggressive measures in protecting the health and safety of the people in this country. What makes this virus so dangerous is that it, seemingly, can transfer from people who are completely asymptomatic to others who, if exposed, are at a much higher risk of severe illness or death due to their age or underlying health. Nursing homes and long-term care staff are now, more than ever, being asked to serve on the front line in protecting those whom this virus threatens the most.

Since its outbreak in the United States, the Centers for Medicare & Medicare Services (CMS) has been working in tandem with the Centers for Disease Control and Prevention (CDC) and the Trump Administration in developing key guidelines for nursing homes and other long-term care facilities to protect residents against the virus. A few weeks ago, CMS advocated for nursing homes to initiate a partly closed-door policy, restricting access into these facilities to staff and urgent visitors. CMS also urged facilities to limit communal interaction among residents and guided them on proper screening and infection prevention protocol to help combat the spread of the virus. On April 2, 2020, CMS amped up its efforts by initiating the COVID-19 Long Term Care and Facility Guidance geared towards keeping residents in nursing homes and long-term care facilities safe and providing recommendations on how staff can reduce the spread of the virus:

- 1. Nursing Homes should immediately ensure that they are complying with all CMS and CDC guidelines related to infection control.** Staff at long-term care facilities and nursing homes need to wash their hands with soap and water, or use alcohol-based hand sanitizer, before touching a patient or their immediate environment and when removing medical gloves. The facility needs to make sure all hand sanitizer and soap and water are readily accessible and available to staff. Each facility must have a self-assessment checklist to make sure they are in compliance with infection control actions. This includes having a COVID-19 team in place, identifying COVID-19 positive residents or patients and ensuring the availability of supplies such as masks, gloves, hand sanitizer, facemasks and disinfectant.
- 2. State and Local Departments should work together with long-term care facilities to address their needs for personal protective equipment (PPE) and COVID-19 tests.** CMS highlighted one such successful collaboration between government and nursing homes. In that example, state government had coordinated with nursing homes throughout the region to designate one, unified facility to house all positive COVID-19 residents. By creating a space where all COVID-19 positive patients could reside, nursing homes were able to avoid further transmission of the virus in their facility. This, in turn, lessened the need for extensive PPE usage in nursing homes and other long-term care facilities with residents who had tested positive.
- 3. Implementation of a screening process.** Access points to long term-care facilities and nursing homes should be limited and the facility needs to immediately implement symptom screening at those access points for everyone who enters the facility. This includes a temperature check and an inquiry as to whether the resident, employee, provider or visitor has experienced any of the COVID-19 symptoms (*i.e.* fever, cough, difficulty breathing). Every resident should have their temperature checked daily and new patients should be screened for COVID-19 through testing, which is now covered by Medicare when performed by a certified laboratory.
- 4. Long-term care facilities should ensure that staff are using appropriate PPE to the extent they are available when interacting with patients and residents.** This includes wearing a facemask at all times while in the facility and the use of full PPE while caring for a

resident with COVID-19 diagnosis or symptoms. Residents and patients should wear facemasks while outside of their room and should cover their noses and mouths with a tissue, cloth or non-medical mask while staff are in their room.

5. **Long-term care facilities should use separate staffing teams for COVID-19-positive residents and keep the staff-to-patient assignment consistent to ensure constant familiarity with the patient and to avoid working across units if possible.** If a separate facility to house COVID-19 positive patients is unavailable, each facility should have separate units assigned to COVID-19 and unknown status patients and residents. This tactic will reduce exposure to COVID-19-positive patients. Further, the facility will need to train their staff on recognizing the signs and symptoms of COVID-19 and notify residents and their families of the limitations on access to the facility and ability to leave and re-enter the facility.

## Increased Awareness and Added Measures Can Save Lives

CMS has stressed the importance of swift action needed to protect some of the most vulnerable citizens from the pandemic. Residents of nursing homes and long-term care facilities are even more susceptible to contracting and spreading COVID-19 because of the large concentration of individuals who are particularly prone to complications arising from the virus. These recommendations, CMS explained, are designed to help state and local government and nursing homes and long-term care facilities as they consider creative ways to stop the spread of the virus, and to assist this front line of individuals working at these facilities to care for the influx of COVID-19-positive patients expected in the coming days.

If you have any questions about guidance related to assisted living facilities or nursing homes, please contact Stephen J. Milewski (milewskis@whiteandwilliams.com; 302.467.4502), Kevin C. Cottone (cottonek@whiteandwilliams.com; 215.864.7108), Roopa Sabesan (sabesanr@whiteandwilliams.com; 302.467.4538) or another member of the Healthcare Group.

As we continue to monitor the novel coronavirus (COVID-19), White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates [here](#).

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.