

Preparing for Increased Nursing Facility Survey Activity Related to COVID-19 and Infection Control

Related Professionals

Chandler Martin
803.540.2161
cmartin@nexsenpruet.com

Alice V. Harris
803.253.8284
AHarris@nexsenpruet.com

Practices

Health Law

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As of July 12, there have been 142,231 confirmed COVID-19 cases and 38,518 deaths in nursing homes.[i] For this reason, CMS recently called nursing homes “ground zero for COVID-19” and announced enhanced survey activities and enforcement related to COVID-19 and infection control in nursing home facilities.[ii] For a comprehensive summary of these new survey and enforcement rules, see our recent article, CMS Directs Increased Nursing Facility Survey Activity and Penalties Related to COVID-19 and Infectious Control.

As a result of this increased enforcement, since March 4, 2020, CMS and state inspectors have conducted over 8,300 surveys.[iii]

The stakes are thus higher than ever with respect to nursing facilities’ compliance with infection control requirements. Preparing for increased COVID-19 survey activity, which can also mitigate COVID-19 risk in a facility, can be aided by a number proactive steps.

Going Back to Basics: Understanding the CMS infection control requirements

As an initial step, nursing facilities can be proactive by refreshing their staff’s understanding of the CMS requirements for infection control.

Nursing facilities participating in the Medicare program are required to establish and maintain an infection prevention and control program (“IPCP”). A detailed summary of the CMS IPCP requirements are available at 42 C.F.R. § 483.80 and the corresponding sections of the CMS survey guidance available at CMS State Operations Manual, Appendix PP – Guidance to Surveyors for Long Term Care Facilities here. Ongoing staff training and compliance oversight related to these CMS requirements can help ensure the facility has a robust IPCP.

Keeping up to Date with Resources from Government Agencies

The facility's infection control team should keep up to date with COVID-19 resources available from CMS, the Centers for Disease Control and Prevention ("CDC"), and state health agencies.

CDC Tools and Guidance

The CDC has a centralized COVID-19 guidance webpage for nursing facilities, [Preparing for COVID-19 in Nursing Facilities](#) available here. Among the CDC's recommendations for nursing homes is for facilities to assign at least one individual with infection prevention and control ("IPC") to provide on-site management of COVID-19 prevention and response activities. This recommendation is based on the "breadth of activities for which an IPC program is responsible, including developing IPC policies and procedures, performing infection surveillance, providing competency-based training of [healthcare personnel], and auditing adherence to recommended IPC practices." A CDC training course related to management of an IPC program is available. [Click here to learn more.](#)

The CDC has also developed a COVID-19 "Infection Prevention and Control Assessment Tool for Nursing Homes Preparing for COVID-19." The CDC tool outlines the following five key strategies:

- Keeping COVID-19 out of the facility
- Identifying infections as early as possible
- Preventing spread of COVID-19 in the facility
- Assessing and optimizing personal protective equipment (PPE) supplies
- Identifying and managing severe illness in residents with COVID-19

The six areas assessed in the CDC Tool includes:

- Visitor restriction
- Education, monitoring, and screening of healthcare personnel
- Education, monitoring, and screening of residents
- Ensuring availability of PPE and other supplies
- Ensuring adherence to recommended infection prevention and control (IPC) practices
- Communicating with the health department and other healthcare facilities

CMS Resources

CMS has developed a [Nursing Facility COVID-19 Toolkit](#) and a compilation of [COVID-19 Long-Term Care Facility Guidance](#).

CMS' infection control requirements often incorporate by reference federal and state guidelines. Regularly consulting these and other resource materials will help ensure the facility stays up-to-date with applicable COVID-19 guidelines. A time line of all CMS announcements and releases from February 6, 2020 to July 14, 2020 with links is available [here](#).

CMS issued survey-specific guidance on COVID-19 Focused Surveys for Nursing Facilities in March that provides a survey tool with a checklist of issues surveyors will be evaluating during focused infection control surveys. Although some of the survey prioritization requirements in this CMS pronouncement were temporary, much of the guidance, including the survey tool, remains current.

Additionally, CMS issued an updated survey tool and guidance in May related to mandatory COVID-19 reporting and notifications which is you can find here. The COVID-19 Focused Survey tool located within this May 6, 2020 guidance and also here, will not only be used by surveyors, but is intended to be a tool nursing facilities can use to perform self-assessments.

State Resources

Another source of helpful tools and information for nursing facilities is state-specific guidance from state health agencies. As an example, the authors of this article are located in South Carolina, and the South Carolina Department of Health and Environmental Control has a robust resource website page.

In conclusion, although enhanced enforcement related to COVID-19 and infection control in nursing facilities is here, there are many tools available to help nursing facilities develop a systematic approach to infection control which can mitigate survey risk and can help keep nursing facility residents and staff safe from infectious disease.

If you have any questions or would like more information, please contact Alice Harris, Chandler Martin, or your Nexsen Pruet attorney.

[i] <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg>.

[ii] June 1, 2020 letter to State Survey Agency Directors QSO-20-12-All at <https://www.cms.gov/files/document/qso-20-31-all.pdf>.

[iii] <https://www.cms.gov/newsroom/press-releases/nursing-home-covid-19-data-and-inspections-results-available-nursing-home-compare>.