# OFFICE OF THE GOVERNOR
## STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

**TO:** Montanans; all officers and agencies of the State of Montana
**FROM:** Governor Steve Bullock
**DATE:** June 25, 2020
**RE:** Directive implementing Executive Orders 2-2020 and 3-2020 and providing measures related to senior living and assisted living facilities.

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

During a declared state of emergency, the Governor may "control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area." Section 10-3-104(2)(c), MCA. In addition, the Department of Public Health and Human Services (DPHHS or Department), acting under the Governor's direction, may "issue written orders for correction" of "conditions of public health importance" through measures including "isolation and quarantine" and "abatement of public health nuisances." Section 50-1-202, MCA. A condition of public health importance includes any "disease . . . that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community." Section 50-1-101(2), MCA. The Department, under the Governor's direction, may take action to correct public health deficiencies in "buildings or facilities where persons assemble." Section 50-1-203, MCA. The Department, under the Governor's direction, may also impose quarantine and isolation measures to protect public health. Section 50-1-204, MCA. Montana law provides that these authorities will be utilized to respond to an "outbreak of disease," § 10-3-103(4), MCA, and to "limit the transmission of the communicable disease," *see, e.g.*, § 50-1-101(6), MCA.

Since the initial March 15, 2020 Directive implementing Executive Orders 2-2020 and 3-2020, all non-essential visitation to nursing home facilities has been suspended. On April 22, 2020, I issued a Directive providing for the phased reopening of Montana. That Directive continued the suspension of visitation to senior and assisted living facilities. As a result, except for very narrow circumstances surrounding essential healthcare provider visitation and compassionate (*e.g.*, end-of-life) visitation, residents of Montana's senior and assisted living facilities have been physically isolated from their family and friends.

On May 18, 2020, the Centers for Medicare and Medicaid Services (CMS) issued a guidance for nursing home reopening that lays out benchmarks for facilities to use to determine when outside visitation of residents can resume, and safeguards to be implemented to protect against transmission of COVID-19 into those facilities.[1] The Centers for Disease Control and Prevention (CDC) have also issued guidance for managing and preventing the spread of COVID-19 in nursing homes and skilled

[1] The CMS guidance, Ref. QSO-20-30-NH, is available at https://www.cms.gov/files/document/qso-20-30-nh.pdf-0. The safeguards against transmission toolkit is available at https://www.cms.gov/files/document/covid-toolkit-states-mitigate-covid-19-nursing-homes.pdf.

nursing facilities.[2] Both CMS and CDC guidance contemplate strict hygiene and other COVID-19 prevention measures to allow safe visitation, but also afford facilities the flexibility to decide whether and how visitation may resume given the individual circumstances of the facility and the community in which it is located. Now that Montana is in Phase II of reopening, Montanans requiring care in senior and assisted living facilities should have access to limited visitation, subject to these stringent safety and health measures. I have determined that these changes that align Montana with federal guidance and best practices are necessary to respond to the emergency.

Therefore, in accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3 and Title 50, Chapter 1, MCA, and other applicable provisions of the Constitution and Montana law, I hereby direct the following measures be in place in the State of Montana, effective immediately:

- Subject to the conditions set forth in this Directive, senior and assisted living facilities may allow visitors after giving notice of the recommended safeguards to residents and family members.
    - Visitation should be conducted in accordance with the strict screening, physical distancing, sanitation, hygiene, and other infection control protocols set forth in the CMS and CDC guidance applicable to nursing homes.
    - Before permitting visitation, facilities should review the applicable CDC and CMS guidance and ensure that they are able to follow the recommendations contained therein.

- To the limited extent that the March 15, 2020 and April 22, 2020 Directives conflict with the provisions of this Directive, they are superseded. No other Directive is amended, rescinded, or superseded except as expressly provided here.

**Authorities:** Sections 10-3-104, -103, -302, and -305, MCA; §§ 50-1-202, -101, -203, and -204, MCA; Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13; and all other applicable provisions of state and federal law.

**Limitations**

- This Directive is effective immediately and expires at the end of the declared state of emergency in Executive Orders 2-2020 and 3-2020.
- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor or any department, agency, political subdivision, officer, agent, or employee of the State of Montana, except as expressly provided in this Directive or other Directives now in effect implementing Executive Orders 2-2020 and 3-2020.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

[2] The guidance is available at https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html.

**Montana Assisted Living and Nursing Home Work Groups' Facility Reopening Guidance**

General Risk Mitigation Advice

Facilities should continue to encourage virtual visitation methods, especially for out-of-state visitors and/or visitors from areas of concern/widespread community transmission, and follow CMS guidance on factors to inform decisions for visitation.

- State and county case counts can be found here: https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html.
- Facilities should consider investing in technology to help with virtual visits. Facilities can apply for funding through the state's Stay Connected Grant Program HERE.
- Facilities should also encourage telehealth where possible for medical appointments. Funding may be available through the FCC's COVID-19 Telehealth Program, more information HERE.

- Facilities should not allow visitation if there is evidence of significant community transmission in their communities and should consult with their local public health department before reopening to visitors

Per CMS QSO-20-30 for nursing homes facilities should not allow visitors if there has been a recent case or cases of COVID-19 within the facility in the past 28 days. Assisted-living facilities may want to consider similar policies. Other considerations for allowing visitors may include:

- The nursing home is not experiencing staff shortages
- The nursing home has adequate supplies of personal protective equipment and essential cleaning and disinfection supplies to care for residents
- The nursing home has adequate access to testing for COVID-19

Visitor Screening

- Before entering the facility, visitors should be screened for COVID-19 symptoms and have their temperature taken. Individuals who have symptoms or a fever of over 100°F should not be admitted to the facility and asked to reschedule their appointment for at least 2 weeks out. The CDC's list of COVID-19 symptoms can be found HERE.
- SAMPLE VISITOR SCREENING QUESTIONNAIRE:

| | No | Yes |
|---|---|---|
| Have you recently traveled to areas where COVID19 (coronavirus) is spreading within the past 14 days? | | |
| Have you been in close contact with people who have traveled to areas where COVID19 (coronavirus) is spreading within the past 14 days? | | |
| Have you been around people who are sick with COVID, colds or flu? | | |

| | | |
|---|---|---|
| Do you have symptoms of a cold.<br>• Cough<br>• Shortness of breath<br>• Fever<br>• Chills<br>• Sore throat<br>• New loss of smell or taste<br>• | | |
| Have you been nauseated or have vomited or had diarrhea within the past week | | |

If the answer is yes to any of the questions the facility should not allow visitation and should share information with the individual about where they may receive medical assistance.

- Individuals who have tested positive for COVID-19 or who have had contact with a COVID-19 case should not be admitted without permission from the local public health department. The CDC recommends that nursing home residents who have tested positive can be admitted to the long term care facility, if they meet the following criteria. Assisted living facilities may want to adopt similar policies:
  - For patients hospitalized with COVID-19, decisions about discharge from the hospital should be based on their **clinical status** and the ability of the accepting facility to meet their care needs and adhere to recommended infection prevention and control practices. Decisions about hospital discharge are distinct from decisions about discontinuation of Transmission-Based Precautions.
  - For patients with suspected or confirmed COVID-19, decisions about discontinuing Transmission-Based Precautions should be based on **the** strategies outlined here. The test-based strategy is **NOT REQUIRED** and might not be possible due to limitations on availability of testing.
  - If a patient with suspected or confirmed COVID-19 **has not** met criteria for discontinuing Transmission-Based Precautions, they should be transferred to a facility with the ability to adhere to infection prevention and control recommendations for the care of residents with COVID-19, including placement in a unit or area of the facility designated to care for residents with COVID-19 and provision of recommended personal protective equipment to healthcare personnel.
  - If the patient with suspected or confirmed COVID-19 **has** met the criteria for discontinuing Transmission-Based Precautions but **has** persistent symptoms (e.g., persistent cough), they should ideally be placed in a single room, be restricted to their room to the extent possible, and wear a facemask (if tolerated) during care activities until all symptoms are completely resolved or at baseline. If the patient **has** met the criteria for discontinuing Transmission-Based Precautions and **does not have** persistent symptoms, they do not require additional restrictions.
  - A patient hospitalized for non-COVID-related illnesses whose COVID-19 status is not known can be transferred to a nursing home without testing. However, to ensure they are not infected, nursing homes should place them in Transmission-

based Precautions in a separate observation area or in a single-person room until 14 days have elapsed since admission.
    - As part of universal source control measures, all residents (including those described in the scenarios above) should wear a cloth face covering or facemask (if tolerated) whenever they leave their room.
- Consider requiring that visits scheduled beforehand, if possible, and/or scheduling visits as not to allow multiple visitation groups from using the same spaces at the same time or without adequate time to properly clean and disinfect such spaces between visits.
    - When multiple visitation groups use the same space, 6 ft of physical distancing must be maintained between groups at all times
    - Facilities should provide visitors with separate restrooms than residents where possible
- Facilities may want to discourage frequent visits or consider regular testing of frequent visitors to assisted living facilities when possible.
- Advise visitors and residents as to good respiratory hygiene and physical distancing before visits
    - Facilities should consider providing fliers and other education materials to visitors and residents before and/or during the visit
- Facilities should consider collecting the names and contact information of visitors as well as date/time of visitation and the name of the resident(s) visited to aid in contact tracing in the event of a visitor or resident testing positive for COVID-19 at a later date.
- Consider designating one entry and exit point.
- Consider designated visitation hours during daytime and evening.

Visitation Risk Mitigation Protocols

Visitation considerations may include:

- Use of outdoor areas or well-ventilated indoor area
- If indoors, restrict to resident's room or other specific location designated by the facility that can be easily contained, monitored and cleaned between visits
- Soap and water, or hand sanitizer, should be available in visitation areas and visitors and residents should be encouraged to clean hands before and after visitation
- Facilities may want to consider limiting visitors to 2 at a time.
- During visitation, physical distancing of 6 ft should be maintained at all times and visitors, and if possible residents, should wear cloth masks.
    - Facilities should consider having masks available to provide/sell to visitors at the time of visitation. If masks are loaned to visitors or residents, the facility must clean them between uses. CDC recommends source control for all visitors, staff and residents. Cloth face coverings can be used for residents and visitors. Cloth face coverings are not considered PPE and should not be used by healthcare workers (HCW). These recommendations can be found here.
- When visitors and residents will eat a meal together, common utensils should not be used
    - We recommend that all facilities adopt the guidance's for retail food establishments to protect residents during dining times. We also encourage assisted living facilities to consult with their local health department on their facilities dining plan prior to opening.

- https://dphhs.mt.gov/Portals/85/publichealth/documents/FCS/ReopeningBarsRestaurantsBreweriesPacket.pdf
- In situations where communal dining occurs, we recommend diners sit at least 6 feet apart and that the same diners are placed together for all meals to minimize cross contact