STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

SECRETARIAL ORDER No. 6
Visitation for Long-term Care Facilities

September 28, 2020

To prevent outbreaks of COVID-19 in long-term care facilities, federal authorities recommended restricting visitation. We appreciate the efforts of families, residents, staff and providers across the state in responding to the COVID-19 Crisis. Ensuring the health and safety of residents has been challenging and required tremendous work on the part of families, facility management and frontline staff.

Facilities are at risk of experiencing outbreaks of COVID-19 and the residents of these facilities are often in a high-risk category for serious complications from COVID-19. The continued use of outdoor visits and technology to keep families connected as much as possible is still highly encouraged. However, given the role of families in overall health and wellbeing of residents, this Order outlines requirements for visitation, including indoor visitation.

The Centers for Medicare and Medicaid (CMS) issued updated guidance on September 17, 2020 to provide ways a nursing home can safely facilitate in-person visitation to address the psychosocial needs of residents.

Based upon the foregoing and pursuant to the authority delegated to me by Governor Cooper in Executive Order No. 152, I find that the following restrictions and recommendations for certain long term care facilities are required to allow visitation while continuing to slow the spread of COVID-19 and save lives and therefore order the following:

This Order applies to the following long term care facilities: nursing homes or skilled nursing facilities and other large residential settings (7 or more beds) including adult care homes, behavioral/IDD, intermediate care facilities, and psychiatric residential treatment facilities. (Facilities with 6 or fewer beds should refer to "Guidance for Smaller Residential Settings Regarding Visitation, Communal Dining, Group and Outside Activities" available here.

This Order replaces Secretarial Order Nos. 3 and 5.

SECTION I. Requirements for Visitation

Nursing homes must adhere to the CMS guidance issued September 17, 2020 in its State Survey Agency Directors memo Ref: QSO-20-39-NH or any subsequent guidance issued by CMS.

In addition, nursing homes and other large residential long term care facilities of 7 beds or greater must adhere to DHHS Guidance on Visitation, Communal Dining and Indoor Activities for Larger Residential Settings or any subsequent guidance issued by DHHS. In the event of a conflict between the DHHS guidance and the CMS guidance, nursing homes must adhere to the CMS guidance.

Section II. Required Assistance

Facilities must allow the following:

1. Voting assistance

   Residents have a right to vote and may need assistance with their absentee ballots. Upon request by a resident, facilities should allow members of a County Board of Elections multipartisan assistance team (MAT), a near relative or a verifiable legal guardian to visit the resident to assist in completing an absentee ballot. These individuals are considered visitors under the requirements for visitation outlined above.

2. Federal Disability Rights laws and Protection and Advocacy Programs

   Facilities must comply with federal disability rights laws and access by the federally mandated protection and advocacy systems.

3. Long term care Ombudsman

   In-person access may not be limited without reasonable cause. If in-person access is not advisable, facilities must, at a minimum, facilitate alternative resident communication with the ombudsman, such as by phone or through use of other technology.

Section III. Distribution.

This Secretarial Order shall be: (l) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; and (2) distributed to others as necessary to ensure proper implementation of this Secretarial Order.

Section IV. Effective Date.

This Secretarial Order is effective immediately. This Secretarial Order shall remain in effect unless rescinded or replaced with a superseding Secretarial Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Secretarial Order.

Signed this the 28th day of September 2020.

Mandy K. Cohen, MD, MPH
Secretary