# Maine DHHS Issues Emergency Rule to Protect the Health and Safety of Maine Nursing Home Residents and Staff

*April 28, 2020*

**AUGUSTA –** As Governor Janet Mills just announced during today's media briefing, the Maine Department of Health and Human Services (DHHS) has issued an emergency rule to further protect the health and safety of Maine's nursing home residents against the spread of COVID-19.

As of April 28, over half (28) of the 51 COVID-19 deaths in Maine were individuals in nursing facilities experiencing outbreaks. Over 25 percent of all cases of COVID-19 are associated with nursing facilities or other congregate living facilities. This emergency rule ensures that nursing facilities take measures to prevent and are prepared to effectively respond to COVID-19. It also makes sure residents and their loved ones are informed and supported.

"The COVID-19 pandemic has presented nursing homes in Maine and across the country with unprecedented challenges," **said DHHS Commissioner Jeanne Lambrew.** "This action ensures that nursing homes continue to be as safe and prepared as possible, that their residents maintain critical connections to loved ones, and that their staffs are supported."

"We believe this is an essential step forward in preventing outbreaks of COVID-19 in our state's nursing homes," **said Maine Long-Term Care Ombudsman Brenda Gallant**. "The emergency rule will be critical in prevention, planning, and preparedness. The goal is to save lives and to protect the health and welfare of some of Maine's most vulnerable citizens, along with the staff who provide their care. Additionally, the rules support the importance of maintaining resident contact with family members through the use of technology and window visits."

DHHS certifies nursing homes on behalf of the federal government but has separate state authority to monitor the care provided to residents, investigate complaints, and undertake enforcement activity. Under the emergency rule, DHHS may now proactively conduct inspections, supplement federal requirements, ensure reporting, and require compliance with U.S. Centers for Disease Control and Prevention (U.S. CDC) recommendations related to COVID-19. This rule remains effective during the public health emergency.

In partnership with the Long-Term Care Ombudsman Program, DHHS proactively reached out during the week of April 12 to all nursing facilities in Maine about their infection control, visitor screening, and other policies related to COVID-19. After DHHS had initiated and completed this work, the U.S. Centers for Medicare and Medicaid Services required similar action by all states. The findings included that:

- Statewide occupancy of nursing facilities was at 85%, indicating that adequate capacity exists to admit new residents, including those being discharged from hospitals
- 80% of facilities are admitting new residents, with some requiring a negative COVID-19 test prior to admission
- Nearly half (48%) share staff, either across facilities or across units within a facility
- Most reported having a supply of personal protective equipment (PPE), but many were not prepared to estimate how many days' supply they had on hand
- Most reported challenges with maintaining staffing levels

The emergency rule focuses on these areas in need of greater attention, directing nursing facilities and skilled nursing facilities to:

- Within 24 hours, notify facility residents, their family members/guardians, facility staff, Maine CDC and DLC when a resident meets CDC criteria to be designated as a probable or confirmed case
- Amend infection prevention protocols to include consultation with Maine CDC within 24 hours of any probable COVID-19 positive resident or staff, and within 12 hours of any confirmed positive COVID-19 resident or staff, for consideration of universal testing and resident cohorting consistent with CDC consultation and guidance
- Restrict visitation consistent with U.S. CDC guidelines and limit resident departures from the facility to only essential activity, such as medical appointments
- Establish safe and reasonable ways for residents to communicate with family, friends, and loved ones, such as through electronic video conferencing or visitation on-site through closed windows, supplemented with phones if needed. DHHS has received federal

approval to provide existing funding to nursing homes for iPads or similar electronic devices and will work with each facility to identify their needs and obtain and distribute the devices consistent with federal guidelines.
- Screen all full- and part-time staff, outside essential health care workers (such as hospice staff, physicians, etc.), and any other individual entering the facility using the most current U.S. CDC screening guidance
- Provide additional personal PPE to staff who work in multiple facilities, based on U.S. CDC guidance
- Stock 72 hours of appropriate PPE at all times and report PPE supplies to Maine CDC
- Ensure adherence to U.S. CDC guidance on the use of PPE and measures to prevent infected individuals from spreading disease
- Conduct cleaning and sanitation consistent with U.S CDC guidance
- Have an adequate written plan to ensure sufficient staff to care for residents in a crisis
- Have a qualified Infection Preventionist who ensures that staff have received proper training and demonstrated competency in appropriate PPE selection and use, conducts random observations of staff use of PPE, and takes immediate corrective actions to prevent cross-contamination.

The emergency rule follows the Mills Administration's numerous actions to support the state's nursing homes. This includes being among the first states in the nation to conduct universal testing at nursing facilities when an outbreak of COVID-19 is confirmed. The State provides an emergency cache of PPE to facilities with outbreaks and provides same-day support and guidance. Since March, the Maine CDC has hosted weekly calls for long-term care facilities to provide information and guidance. In recent weeks, DHHS intensified its engagement, including medical directors and communications to all doctors and nurses in Maine.

On March 26, DHHS announced (//www.maine.gov/dhhs/press-release.shtml?id=2289648) that MaineCare will pay nursing facilities for extra costs associated with COVID-19, including staffing above and beyond customary levels to maintain proper ratios and to monitor residents and screen visitors, supplies and PPE, such as face masks and gowns, beyond the amounts typically purchased. This extraordinary circumstance allowance, which takes the form of a temporary rate increase, builds on prior investments in nursing facilities in the biennial budget. This financial support for long-term care facilities and congregate living facilities is coupled with DHHS' proactive public health measures (http://www.maine.gov/tools/whatsnew/index.php?topic=DHS+Press+Releases&id=2363635&v=dhhs_article_2020) to support them.

DHHS is also conducting similar outreach to group living facilities about infection control policies, completing this week communication to 107 assisted living facilities and adult family care homes, which will be followed by residential care homes for older persons and agencies that provide homes for adults with intellectual disability or behavioral health needs. As with the nursing facility outreach, this work will inform DHHS about the needs of organizations operating group living settings.

For the latest information and guidance on Maine's response to COVID-19, please visit coronavirus.maine.gov (//coronavirus.maine.gov/) .

## Credit

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## Information



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