Maryland
DEPARTMENT OF HEALTH

DIRECTIVE AND ORDER REGARDING ASSISTED LIVING PROGRAM MATTERS

Pursuant to Executive Orders Nos. 20-06-10-01, 20-04-29-01, and Various Health Care Matters of March 16, 2020

No. MDH 2020-06-26-01

I**,** Robert R. Neall, Secretary of Health, finding it necessary for the prevention and control of 2019 Novel Coronavirus ("SARS-CoV-2" or "2019-NCoV" or "COVID-19"), and for the protection of the health and safety of residents, staff, and other individuals in Maryland, hereby authorize and order the following actions for the prevention and control of this infectious and contagious disease under the Governor's Declaration of Catastrophic Health Emergency.

1. **General Items.**

A. **Definition and Compliance.** Facilities licensed under Title 19, Subtitle 18 of the Health-General Article and COMAR 10.07.14 ("Assisted Living Programs") shall immediately ensure that they are in full compliance with all applicable U.S. Centers for Disease Control and Prevention (CDC), and the Maryland Department of Health (MDH) guidance related to COVID-19.

Assisted living programs shall check CDC, and MDH guidance weekly to ensure that they are complying with the most current guidance and adjust their policies, procedures, and protocols accordingly.

B. **Entrance control.** Facilities shall screen all persons who enter the facility (e.g., staff, volunteers, vendors, and visitors when permitted) for signs and symptoms of COVID-19, including temperature checks. Facilities shall refuse entrance to anyone screening positive for symptoms of COVID-19.

C. **Face coverings mandatory for staff and visitors.** All staff, volunteers, vendors, and visitors when permitted, shall wear the appropriate face covering (e.g., surgical mask, cloth face covering) at all times when they are inside the facility. All staff in close contact with residents of an assisted living program shall use appropriate CDC Standard and Transmission-based Precautions and follow Maryland Department of Health (MDH) guidance.

D. **Resident Face Coverings.** To the extent possible, residents should wear face coverings (e.g., surgical mask, cloth face covering) in the following circumstances:

i. If they leave their rooms or when they are within close proximity (under six feet) of others inside the facility; and

ii. For any trips outside of a facility (e.g. such as for a medical appointment).

E. **Resident Checks.** Facilities shall screen all residents daily, including observing for signs and symptoms of COVID-19; asking questions about signs and symptoms of COVID-19; and where appropriate, temperature and pulse oximetry checks.

F. **PPE.** Facilities shall use good faith efforts to maintain adequate supplies of all appropriate types of personal protective equipment (PPE) for staff, and as appropriate, residents. Facilities may request PPE from the State by using the PPE Request Form.

G. **Cleaning.** Facilities shall provide access to soap and water or alcohol based sanitizer throughout the facility and remind residents, visitors, and staff to perform hand hygiene upon facility entry, between contact with individuals, and after contact with high-touch surfaces within the facility. Facilities shall ensure adequate cleaning and disinfection supplies are available and used to clean and disinfect common areas and high-touch surfaces.

H. **Reporting**. All facilities shall provide informational updates on COVID-19 to residents, residents' representatives, and staff within 24 hours of the occurrence of a single confirmed infection of COVID-19, and/or whenever there are three or more residents or staff who have new-onset respiratory symptoms within a 72 hour-period.

i. Updates to residents, residents' representatives, and staff must be provided weekly, or each subsequent time a confirmed infection of COVID-19 is identified, and/or whenever three or more residents or staff with new-onset respiratory symptoms occur within 72 hours.

ii. Facilities shall include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations in the assisted living program will be altered.

iii. The above information must be reported to residents, residents' representatives, and staff in accordance with existing privacy statutes and regulations.

iv. Facilities shall make reasonable efforts to ensure that residents or their residents' representatives are informed in the language most accessible to them so that they understand these COVID-19 updates.

v. Each facility shall report to the local health department within 24 hours of the occurrence of a single confirmed infection of COVID-19, and/or whenever there are three or more residents or staff with new-onset respiratory symptoms that occur within 72 hours.

I. **Residents with suspected or confirmed COVID-19.**

i. To the extent possible, a facility shall immediately:

a. Isolate the resident with suspected of confirmed COVID-19 in a single-person room, if one is available, using appropriate standard and transmission based precautions;

b. Arrange for and provide assistance in the testing of the resident for COVID-19; and

c. Arrange for and provide assistance in obtaining appropriate medical attention for residents with suspected or confirmed COVID-19.

ii. A confirmed COVID-19 infection in a resident is a significant change of condition under COMAR 10.07.14.02(74). Upon confirmation of a COVID-19 infection in the resident, the facility shall develop and implement a service plan under COMAR 10.07.14.26.

2. **COVID-19 Testing.**

A. **Facilities with Less Than 50 Beds.**

i. For all assisted living programs with less than 50 beds, upon identification of a resident or staff member with laboratory-confirmed COVID-19, the facility shall report the case to their local health department, and test all residents and staff for COVID-19 by:

a. Using appropriate healthcare staff for the collection of specimens for COVID-19 testing of these staff and residents;

b. Making contractual and financial arrangements with a CLIA-approved laboratory; and

c. If needed, requesting testing and staff assistance from the local health department as capacity allows for test supplies and staffing resources in testing all residents and staff.

ii. Testing shall be performed at weekly intervals until no new resident infections are confirmed in a 14-day period since the most recent positive result. Individuals who have tested positive within eight weeks do not need to be retested if:

(a) They are currently being isolated for COVID-19, or

(b) They have completed isolation based on a time, test, or symptom-based strategy per CDC guidelines, and

(c) Are currently asymptomatic for COVID-19 symptoms.

Note: Admission or readmission of a resident already confirmed to have COVID-19 will not trigger this weekly testing requirement.

Note: For programs where staff, family of staff or additional non-facility tenants live onsite at the facility's physical building, the non-facility tenants and family of staff shall be tested as well.

iii. The facility shall provide the details of their testing plan to the local health department and make it available to residents or residents' representatives.

iv. Individuals that refuse testing may be required to go to and remain in places of isolation or quarantine, pursuant to Health Gen. Art. § 18-905(a)(iii).

B. **Facilities with 50 or more Beds.**

i. All assisted living programs with 50 or more beds shall test all staff, volunteers (if permitted), and vendors who are in the facility regularly on a weekly basis for COVID-19 by using a polymerase chain reaction-type test (PCR test). Individuals who have tested positive within eight weeks do not need to be retested if:

(a) They are currently being isolated for COVID-19, or

(b) They have completed isolation based on a time, test, or symptom-based strategy per CDC guidelines, and

(c) Are currently asymptomatic for COVID-19 symptoms.

ii. Each facility shall be responsible for making appropriate contractual and financial arrangements for the testing of these staff, volunteers, and vendors with CLIA-approved laboratories.

Note: MDH will continue to provide support for COVID-19 testing of staff, volunteers and vendors until August 1, 2020, to allow facilities to make contractual arrangements. MDH support will be limited to provision of specimen collection kits, laboratory courier, processing and reporting services via laboratories designated by MDH. Facilities may elect to use alternate CLIA-approved laboratories at their own expense. Facilities are required to collect the necessary specimens.

iii. Upon positive identification of a resident or staff member with COVID-19, all residents who have not previously tested positive for COVID-19 shall be

tested using a PCR test. Testing of all negative residents must be repeated weekly until there are no confirmed positive results among residents and staff for at least 14 days since the most recent positive result.

Note: Admission or readmission of a resident already confirmed to have COVID-19 will not trigger this requirement.

iv. As directed by MDH, a facility shall perform additional COVID-19 testing or permit COVID-19 testing to be administered to residents and staff by MDH, a local health department, or by designated MDH Response Team member(s).

v. The facility shall provide the details of their testing plan to the local health department and make it available to residents or residents' representatives.

vi. Individuals that refuse testing may be required to go to and remain in places of isolation or quarantine, pursuant to Health Gen. Art. § 18-905(a)(iii).

3. <u>Criteria for Re-Opening of Facilities Phases</u>.

A. A facility may relax restrictions on residents, visitors, and volunteers pursuant to guidance issued by MDH. A facility may not move to the next phase until the following have occurred:

i. The local jurisdiction or county shall, at a minimum, be in Stage 2 of Governor Hogan's Maryland Strong: Roadmap to Recovery.

ii. Facilities shall spend a minimum of 14 days in any given phase, with no new facility-onset COVID-19 cases before advancing to the next phase.

iii. Either MDH or a local health department may direct a facility to a more restrictive set of conditions at any point.

B. A facility shall communicate regularly with staff, residents, and residents' representatives about the facility's reopening plans, and the implementation of the re-opening.

C. In Continuing Care Retirement Communities, facilities shall work with their local health department to determine the appropriateness of progressing through different phases of relaxation at different times for facilities with both assisted living and nursing homes. Guidance may be different for facilities who have mixed acuity residents in a single building versus a physically separate building, or based on facility size.

4**. <u>Penalties</u>.** Persons who violate this Order and Directive may face administrative and criminal sanctions.

5. **Severability**. If any provision of this Directive and Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of this Directive and Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Directive and Order are severable.

THESE DIRECTIVES AND ORDERS ARE ISSUED UNDER MY HAND THIS 26TH DAY OF JUNE 2020 AND ARE EFFECTIVE IMMEDIATELY.

Robert R. Neall
Secretary