

# **Virtual Resident Family Action Council**

## **Meeting Topic: Monitoring Care in Nursing Homes**

**This meeting is for Nursing Home Residents & their Loved Ones  
We are looking for volunteers to share their experiences**

**January 24, 2022**

**Gail Myers, Deputy Director**

**NY StateWide Senior Action Council**

# StateWide is Here for YOU

**New York StateWide Senior Action Council, Inc.**

**Medicare, Patient's Rights, & Medicare Fraud Helplines**

**800-333-4374**  
**www.nysenior.org**

*Your  
trusted  
source*



**Patient's Rights** - To assist all New Yorkers in asserting their patients' rights regarding quality coverage and access to health care services.



**Medicare Health and Prescription Drug Coverage** - To educate and assist Medicare beneficiaries and their families to make informed decisions regarding health care coverage.



**Services & Benefits for Seniors** - To help find state, local & federal services and benefits available to seniors.



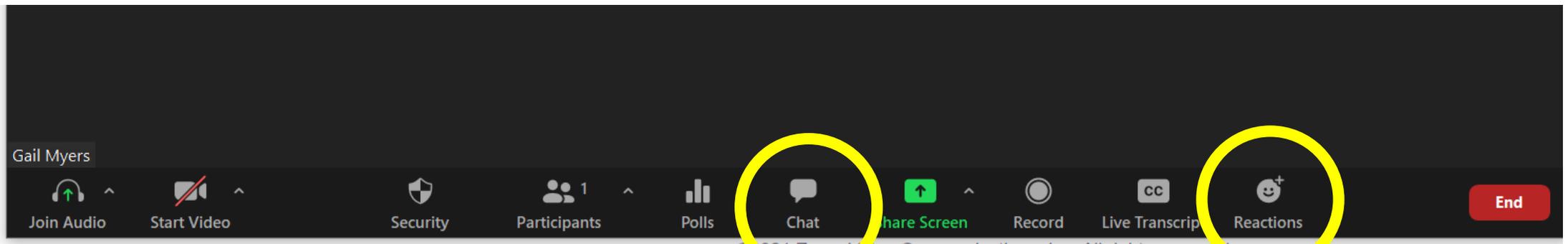
**Medicare Fraud Prevention** - To empower and assist Medicare beneficiaries, their families and caregivers to prevent, detect and report health care fraud, errors and abuse.

# Interactive Session

Your questions & comments are welcome



Use the Chat function or Raise hand



# This is YOUR COUNCIL

## What Topics do you want to learn more about?

- Coming soon:
- 3/21/22 - Transfer and discharge rights.
- **Put in the chat:**
  1. Why you decided to join us today.
  2. Ideas YOU have for additional topics.

https://www.nysenior.org/virtual-resident-family-action-council-nov-15-meeting-2/

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New York StateWide Senior Action Council, Inc.

ABOUT OUR HELPLINES SENIOR MEDICARE PATROL SENIOR ISSUES ADVOCACY CNY HEALTH TASK FORCE REGIONS



### Virtual Resident Family Action Council – NOV 15 Meeting

Nov 15, 2021

#### Our November Council Meeting:

- [View a RECORDING of the meeting](#)
- View the Powerpoint Presentations – [Gail Myers – Virtual Resident Family Action Council](#); [Cynthia Rudder, P.h.D Quality of Care Presentation November 15 2021](#)

Patients' Rights Webinar – February 15, 2022

January 18, 2022 | Newsroom Teach-Ins

Topic: How to Apply for the Hospital Financial Assistance Program ...

Governor Hochul's State of the State Message

January 7, 2022 | Newsroom



# MONITORING NEW STAFFING LAW.

~~In effect January 1, 2022.~~

Governor delayed enforcement until Feb. 1



- The Commissioner of Health will establish regulations for standards related to nursing home minimum staffing levels.  
At a minimum, nursing home staffing standards would have to include 3.5 hours of nursing care per resident per day. Of this 3.5 hours at least 2.2 would need to be provided by nursing assistants and at least 1.1 would need to be provided by licensed practical nurses (LPNs) or registered nurses (RNs).
- Compliance shall be determined quarterly by comparing the daily average of the number of hours provided per resident, per day, using the federal Centers for Medicare and Medicaid Services payroll based journal and the facility's average daily census on a daily basis.  
No penalties will be assessed prior to April 1, 2022
- Each facility must post their required staffing levels.

# MONITORING NEW RE-INVESTMENT IN CARE LAW

~~In effect January 1, 2022.~~

Governor delayed enforcement until  
Feb. 1



- New York nursing homes will be required to put nearly three quarters of their money toward caring for residents, as a nursing home profit cap was included in the 2021 New York State budget.
- The profit cap will mandate nursing homes put at least 70% of their revenue toward direct care.
- Of that 70%, at least 40% will have to go toward paying patient care staff.



## Advocacy for Visits

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop C2-21-16  
Baltimore, Maryland 21244-1850



**Center for Clinical Standards and Quality/Survey & Certification Group**

**Ref: QSO-20-39-NH**

***REVISED 11/12/2021***

**DATE:** September 17, 2020

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Nursing Home Visitation - COVID-19 (*REVISED*)

**Memorandum Summary**

- CMS is committed to continuing to take critical steps to ensure America's healthcare facilities are prepared to respond to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency (PHE).
- **Visitation Guidance:** CMS is issuing new guidance for visitation in nursing homes during the COVID-19 PHE, including the impact of COVID-19 vaccination.
- ***Visitation is now allowed for all residents at all times.***

**Background**

Nursing homes have been severely impacted by COVID-19, with outbreaks causing high rates of infection, morbidity, and mortality.<sup>1</sup> The vulnerable nature of the nursing home population combined with the inherent risks of congregate living in a healthcare setting have required aggressive efforts to

[https://coronavirus.health.ny.gov/system/files/documents/2022/01/health-advisory-nursing-home-visitation\\_1-12-22.pdf](https://coronavirus.health.ny.gov/system/files/documents/2022/01/health-advisory-nursing-home-visitation_1-12-22.pdf)



Department  
of Health

KATHY HOCHUL  
Governor

MARY T. BASSETT, M.D., M.P.H.  
Acting Commissioner

KRISTIN M. PROUD  
Acting Executive Deputy Commissioner



Date: January 12, 2022

To: Nursing Home Administrators, Directors of Nursing, Infection Preventionists and Medical Directors

**Health Advisory: Nursing Home Staff and Visitation Requirements**

**Please distribute immediately to:**

Operators, Nursing Home Administrators, Directors of Nursing, Infection Preventionists and Medical Directors

Due to the current Omicron COVID-19 outbreak throughout the State of New York, the New York State Department of Health is issuing this Health Advisory under 10 NYCRR §415.19 to implement the following requirements for staff and testing protocols for all visitors entering a nursing home in New York State during the duration of the Omicron outbreak:

- All nursing homes must continue to require personnel to be up to date on their COVID-19 vaccinations, as required by the Department's Prevention of COVID-19 Transmission by Covered Entities Emergency Regulation.
- All staff must be masked at all times, regardless of vaccination or booster status, and

## Mask, Personal Protective Equipment, and Physical Distancing Requirements for Visitors:

All visitors must:

- Wear a well-fitting non-surgical paper mask or a mask of higher quality (i.e., surgical mask, KN95 or N95) at all times during any visitation at the facility. If the visitor wishes, a cloth mask may be placed over the paper mask. The masks must cover both the nose and the mouth; and
- Physically distance from facility personnel and other patients/residents/visitors that are not directly associated with the specific resident(s) being visited by that individual.

## Testing for Visitors:



In addition, all nursing homes licensed and regulated by the New York State Department of Health must verify that visitors have received a negative SARS-CoV-2 test result **one day prior to visitation for antigen tests and two days prior to visitation for NAAT (e.g. PCR) tests.** **All visitors may use either NAAT testing or antigen testing.** This means, for example, that a test for a Sunday visit should be conducted no earlier than Saturday if it's an antigen test or Friday if it's a PCR test. Any PCR or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.

Facilities can offer to conduct onsite testing of visitors, if practical. Facilities must have policies and procedures in place to review and report results of SARS-CoV-2. Records of SARS-CoV-2 tests must be made available, upon request to the local health department (LHD) and the New York State Department of Health. For visitors who visit for multiple days, including a visitor who comes every day, proof of negative testing is required as often as feasible, at a minimum every third day (meaning at a minimum testing is required on day one, day 4, day 7, and so on).

New York State shipped iHealth OTC COVID-19 Antigen Rapid Tests to every nursing home in the week of January 3, 2022, with shipments arriving by January 10, 2022. A nursing home should provide a visitor with an iHealth OTC COVID-19 Antigen Rapid Test if he/she does not

# Compassionate Care Visitors EXEMPT

Compassionate caregiving visitors, within the meaning of Public Health Law §2801-h, who are visiting in anticipation of the end of a resident's life or in the instance of a significant mental, physical, or social decline or crisis of a resident. In any case where such an exception is made, the visitor must wear any additional personal protective equipment (PPE) that facility personnel deem appropriate to the situation.

REPORT ON LACK OF MASKS OR TESTING  
THAT IMPEDES RIGHT TO VISITATION

Call the Nursing Home Complaint Hotline  
1-888-201-4563



# Monitoring care in Nursing Homes

Cynthia Rudder, PhD

# STATE BUDGET IMPACT ON NURSING HOME STAFFING & QUALITY

- State Budget negotiations begin – New Fiscal Year starts April 1
- Funds for bonuses for health care workers to improve recruitment
- Funds for educational programs to get nurses into the pipeline
- Funding for the long term care ombudsman program

# What's Next

- **Friday, January 28, 2022 \* 10AM – Noon**
- State Budget on Aging Issues
- **Friday, February 11, 2022\* 10AM – Noon**
- State Budget Issues on Health and other issues

NEXT Virtual Resident Family  
Action Council Meeting

- **Monday, March 21, 2022 10AM – Noon**
- Transfer and discharge rights

\*Get information to connect at [www.nysenior.org](http://www.nysenior.org)



This is YOUR COUNCIL

## OPEN FORUM



Tell us.....

1. Did we meet your needs today?
2. Ideas YOU have for additional topics.
3. Are you having issues related to nursing home care that you need help with?\*

\* You can always call 800-333-4374, our Patients Rights Helpline.



800-333-4374

Website: [www.nysenior.org](http://www.nysenior.org)

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