

## Updated Webinar Questions Full Count

Answers Provided by HHSC Staff and Updated to Reflect New Visitation Rules on September 28, 2020

### 1. How long does HHSC anticipate keeping the highly restricted visitation requirements? When do you see Phase II being implemented? Have those guidelines been written yet and who is responsible for writing them?

Expanded visitation for long-term care facilities went into effect September 24, 2020. The emergency rules for expanded visitation are available on the HHSC website under the “Regulatory Services” and additionally in the Texas register.

- **Similar:** Where is the "light at the end of the tunnel?" We cannot still be standing outside windows come Christmas time. We cannot let our loved ones continue to waste away in these facilities without their family members actively involved in their care.
- **Similar:** A lock down for a month is understandable BUT going on close to 6 months, with all that HHS Regulatory knows firsthand about LTC Facilities how can this be?
- **Similar:** I've been trying to think of any outside the box ideas to safely be closer to my husband. What needs to happen for visitation to be allowed? Vaccine? Statistics? Other?
- **Similar:** When should we expect to see the Stage 2 information that HHSC states they are working on?
- **Similar:** Many families are losing loved ones without ever having a chance to see them or say their last goodbyes, and it is heartbreaking. I am earnestly pleading with you to change this policy and begin allowing visitors at nursing facilities as soon as possible. So, when will LTC facilities reopen for visitors?
- **Similar:** When will the governor and our representatives end the imprisonment of our loved ones?
- **Similar:** Is there any chance we will be able to visit our family members soon. Our facility cannot find a company to test twice a week with timely results. They got the new equipment for rapid results, but no tests are available.

The below link lists numerous resources for facilities regarding testing reimbursement. Facilities are also encouraged to work with their HHSC Regional Office, the Texas Division of Emergency Management (TDEM), and the Department of State Health Services (DSHS) for assistance to obtain resources related to COVID-19.

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<https://hhs.texas.gov/sites/default/files/documents/services/health/coronavirus-covid-19/nf-testing-reimbursement-faqs.pdf>

- **Similar:** In looking at social media, it would appear that many families are equally if not more concerned about the emotional impact the visitation restrictions are having than the COVID virus itself. Does HHSC have concerns about the long term impact these restrictions will have on the residents and staff providing care in these facilities?
- **Similar:** What are you doing to help families reestablish contact with their loved ones? Actual physical contact not through a window or outside 6 ft apart since some loved ones are not able to do that physically.

HHSC's new rules allow for designated essential caregivers to visit residents and provide hand's on, supportive care. Facilities must train the essential caregiver on how to use personal protective equipment (PPE) and other infection control requirements. The essential caregiver visit is permitted for all residents who are not COVID-19 positive and in all facilities, and each resident can designate up to two caregivers, who must make separate visits.

CDC guidance recommends physical distancing as people who are infected but do not have symptoms likely also play a role in the spread of COVID-19. Physical distancing is especially important for people who are at higher risk for severe illness from COVID-19.

2. **Where do you draw the line between mental health and physical health? Why can't they have socially distanced visits outside with masks on like the rest of the world? Courtyards are great areas.**

The new essential caregiver visit permits physical contact between the visitor and the resident they are visiting. The essential caregiver visit is permitted for all residents who do not have an active COVID-19 infection, and in all facilities.

Additionally, facilities with general visitation designations can allow outdoor visits with family and friends of a resident. Regarding group dining and social activities, facilities were recently notified by the Centers for Medicare and Medicaid Services (CMS) that communal dining and activities can resume for residents who are COVID-free, as long as the facility follows the [Core Principles of COVID-19 Infection Prevention](#).

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### 3. What are the benchmarks the State is looking at to move to Phase 2? Is HHSC considering data and options from other states? Why does Texas need to rely solely on data from this state, and how much is needed?

To expand visitation options, the state had to see consistent improvements in infection control, application of the rules and requirements for safety, and a consistent decrease in the cases of infection in the facilities. HHSC uses multiple points of data to track the status of the safety environment in long term care facilities, such as incidents of COVID infections, separately tracking staff and resident infections, and deaths related to COVID infections. We are also tracking incidents, complaints, and how often we have to issue the “immediate jeopardy” citations in facilities, particularly related to the most recent rules on infection control. We also are tracking staffing requests and other requests for infection control assistance.

We are also reviewing and considering facilities use of testing. CMS just recently mandated uniform testing standards, and nursing facilities are implement those. Testing is a key tool in early detection of COVID outbreaks in facilities. We are also relying on what we see and hear out in the field. When we are entering a facility to conduct a rapid outbreak control response or a survey, we are observing infection control and safety protocols to ensure they are consistently followed and being implemented. Because of the unprecedented nature of this pandemic, there are no pre-set standards of what is a “safe” environment, but we are working daily to assess the situation with the goal of stabilizing facilities, so that visitation options can be expanded.

We are not just looking at Texas data. We are relying on federal data and we are watching closely what is being implemented in other states so that we can also quickly implement successful strategies for addressing safety.

- **Similar:** What benchmarks or metrics is the state looking at to move from phase 1 to phase 2 in allowing more open visitation for assisted living and skilled nursing facilities? What is the target we're working towards?
- **Similar:** Will the state look at individual counties or individual facilities to make the decision to further open up visitation, or will those counties/facilities with lower COVID numbers always be subject to the same criteria as those which have much higher numbers? (e.g. My dad's assisted living facility has

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only had 1 case in 5 1/2 months, and it was a PRN staff member, not a resident. All residents have been tested twice.)

- **Similar:** What is the overall benchmark that needs to be achieved in order for facilities to be opened as before? It was stated that we would keep doing these restrictions until “there was no need”. How are we measuring "when there is no need"?
  - **Similar:** What benchmarks or metrics is the state looking at to move from phase 1 to phase 2 in allowing more open visitation for assisted living and skilled nursing facilities? What is the target we're working towards?
- 4. As the state considers new visitation options, what are other states doing that HHSC might consider for the next phases of re-opening visitation?**

Generally, there are three types of visitation allowed in some form in other states, including outdoor visiting, indoor/outdoor with a plexiglass barrier, and essential family caregiving visits. With HHSC approval, all three types of visitation can now occur in Texas facilities following the new expanded visitation rules.

- 5. What is Phase 2 visitation going to look like? Will it include physical contact?**

The new expanded visitation guidance allows a resident to designate up to two essential caregivers who will be provided necessary training to allow them to safely go inside a facility for a scheduled visit, including in the resident’s room. Designated caregivers will not be required to maintain physical distancing and may have physical contact, but only one caregiver can visit a resident at a time.

While essential caregiver visitors do not have to maintain physical distancing between themselves and the resident they are visiting, they must maintain physical distancing between themselves and all other residents and staff.

Family members or friends who are *not* designated caregivers can continue visiting residents while following the requirements of the general visitation rules, which include screening and all other infection control requirements for indoor or outdoor visits. Unlike essential caregivers, these visitors must maintain physical distancing throughout the visit, which can be inside or

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outside but must continue to be scheduled in advance and monitored by facility staff. Facilities also must continue to submit attestations to HHSC confirming they comply with all general visitation requirements.

- **Similar:** Considering that the August 6 guidelines put out by the Texas Department of Health and Human Services (HHSC) for “limited visitation” during Phase 1 uses the phrase “Physical contact between residents and visitors is not permitted” in at least two places, I am wondering when will the HHSC permit physical contact between residents and visitors?
- **Similar:** Is there serious consideration in allowing for the Essential Family Caregiver in assisted living facilities anytime soon?

Yes, the new visitation rules also allow essential caregiver visits at assisted living facilities.

- **Similar:** What exactly are the Phase 2 guidelines, and when exactly will they be implemented.
- **Similar:** What are the Phase 2 guidelines?
- **Similar:** Will the state look at individual counties or individual facilities to make the decision to further open up visitation, or will those counties/facilities with lower COVID numbers always be subject to the same criteria as those which have much higher numbers? (e.g. My dad's assisted living facility has only had 1 case in 5 1/2 months, and it was a PRN staff member, not a resident. All residents have been tested twice.)

### 6. How can residents of facilities be denied seeing their specialist doctors?

**Similar:** My mother and grandfather live in an assisted living home both their cardiologist Dr will not do video call they only do in office visit. Both my mom and grandfather are behind on their Dr visits because they mentally cannot handle the 14-day isolation every time they leave for a Dr visit or if a staff member brings in a COVID case. Can you please lift the 14-day isolation to their rooms?

Residents in long-term care facilities should not be denied medical visits. If a resident goes to a medical appointment and is transported by facility staff, wears a facemask or face covering, and returns the same day, the resident is not required to be quarantined unless the resident is exposed to someone known or suspected to have COVID-19. If, however, a

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friend/family/volunteer takes the resident out for a medical appointment, the resident would have to be quarantined for 14 days upon return.

### **7. Why was Phased 1 rolled-out with requirements that make it unattainable for so many facilities?**

Phase 1 was implemented August 8th and was limited to only facilities with no COVID infections, among other restrictions. In consultation with our state and federal partners, HHSC determined a need to proceed with caution, especially because of the significant surge of COVID-19 cases in June and July in Texas. That surge in community spread also resulted in a spike in cases in long-term care facilities, who, of course, have residents who are particularly vulnerable to the virus.

We made it clear to providers that if they followed the phase 1 rules and precautions, it would lead to further expansion of visitation. HHSC closely tracked the data and determined that a steadily declining number of cases in long-term care facilities allowed for the expansion of visitation announced September 24.

### **8. How are facilities restricting visitors but can be having in person tours?**

Facilities are encouraged to provide a virtual tour of the facility to a prospective resident. That can be done through a smart phone or tablet. An in-person to select a facility is not permitted by current state rules.

Prospective employees in a facility must be screened prior to entry and should not have contact with residents and care staff interacting with residents until the staff's employment is complete and the person is authorized to provide direct services to a resident.

Facilities should continue to restrict visitors to those providing critical assistance per the guidance outlined in the emergency rules relevant to their facility type unless the facility believes the person may impeded the health and safety of residents or the person fails screening criteria. Persons providing critical assistance include providers of essential services, persons with legal authority to enter, and family members or friends of residents at the end of life. Under the new rules, essential caregivers are also considered

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essential visitors and should be allowed to visit a resident under the requirements outlined above.

Facilities violating any restrictions should be reported to HHSC Complaint and Incident Intake at 1-800-458-9858 or online at [HHSC Complaint and Incident Intake](#).

**9. Why are facilities allowed to decide whether to allow visitation, why isn't visitation mandatory? Can facility limit methods of visitation to be less than what the state allows?**

HHSC is not on the ground at each facility every day, and we must rely on the local administrators to know whether it is safe enough in their facility to allow visitation. Additional visitation options do require facilities to take staff away from infection control efforts and other staff responsibilities to ensure visitations meet safety requirements, and if the facility does not have the staff or other resources to do so, then the state does not believe it should mandate they open visitation. For nursing facilities, CMS and HHSC have made some types of visitation mandatory.

**10. My husband's facility has been very vocal about indicating they have no plans to open up visitation, which is currently only through a closed window, in the near future. Are there any plans to force them to be more supportive of moving in this direction?**

At this time, the resident's right to visitation is limited by a facility's decision to apply for expanded visitation designation and other factors like whether there are any active cases of COVID-19 in the building. Individuals are encouraged to communicate with the facility to learn why the facility has not applied for expanded visitation designation, and to communicate with their Long-Term Care Ombudsman and the facility to determine the facility's visitation options. You can contact the Long-Term Care Ombudsman in your area by phone at 1-800-252-2412 or via email [ltc.ombudsman@hhsc.state.tx.us](mailto:ltc.ombudsman@hhsc.state.tx.us).

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### **11. Can a local order prohibit a facility from participating in Phase 1 visitation and why?**

Yes, if there are more stringent restrictions in place from local authorities that prohibit visitation to a facility, the facility must follow the more stringent guidelines. During a public health emergency, a local order does have the ability to over-rule a lesser strict state requirement.

### **12. Is consideration being given to those with Advanced ALZ who do not understand face time or window visits? What are some things facilities are doing to assist with this?**

HHSC issued COVID-related guidance to providers on how to work with residents with dementia or other forms of memory loss, given their specific emotional vulnerabilities. This guidance emphasized the following:

- Keeping resident routines as consistent as possible
- Dedicating specific personnel to work in memory care units to the extent possible and try to keep staffing as consistent as possible
- Provide safe, structured activities and ways for residents to be active, such as having staff walk with residents indoors or outside

Visiting without touch and wearing PPE may be more challenging for a person living with dementia. It is important for the facility staff who will monitor and arrange for visiting to prepare for the possibility that a resident with dementia may need reminders and redirection about the visit requirements. Facility staff and the visitor should also plan ahead for how to respond positively – with a smile and nod to reassure the resident as you remind or redirect. If a resident makes physical contact with a visitor, a positive response could include a simple redirection to a location of interest and a topic or visual that is meaningful to the resident. For instance, if the resident stands and touches the visitor, the visitor could stand, and the visit could occur while exploring a garden area, or a meaningful photograph or other object could be available to discuss. The visitor and resident can use hand sanitizer as the visit continues. And, if the resident is not engaging in the visit through conversation, allow the visitor to remain seated and observe the resident as he or she explores the outdoor area or indoor room.

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### 13. Since HHSC is considering allowing essential caregivers in future phases of re-opening visitation? Describe what a designated caregiver is and how that would work?

In the new visitation rules, essential caregiver visits are allowed. Each resident is allowed two permanent designated essential caregivers. Visits from essential caregivers are allowed in all facilities and is not dependent on a facility's approval status for expanded reopening visitation or the community's COVID-19 positivity rate. An essential caregiver is defined as: a family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed guardian, who is at least 18 years old and has been designated by the resident or legal representative to provide regular care and support to a resident. An essential caregiver does not have to refrain from physical contact with the person they are visiting. Essential caregiver visitors are trained by the facility on infection control policies and procedures, including any appropriate PPE.

- **Similar:** Will the state consider a Designated Caregiver program to allow 1 family member per resident access to the resident to tend to their physical needs and provide the touch they so desperately are missing? (The designated caregiver would follow the same rigorous guidelines as the staff and would be screened in exactly the same way, plus subject to testing as needed.)
- **Similar:** The State of Texas can allow designation of ONE FAMILY MEMBER as essential to the care of each resident. We must learn to live in a Covid-19 world as safely as is reasonably possible. Phase 1 guidelines are not reasonable. We need to initiate Phase 2 now and make it an Essential Family Caregiver plan. Right now, somebody is alone in a facility somewhere and will die having not seen a family member in the final months of his or her life.
- **Similar:** More than 5 months have passed since family members have been able to see loved ones in facilities. My Mom is 80 years old, has advanced Alzheimer's, and lives in a small group care home with 5 residents. Current visitation restrictions ensure that I will not be able to see or hug my Mom in person until she is actively dying. What are options for granting family members access to their loved ones – similar to non-medical caregivers in her facility who are not tested, not restricted from living their personal lives, and provided entry by required screening, and use of a paper or cloth mask?
- **Similar:** Is this the best we can do for our disabled senior citizens? We are all concerned about Covid-19, but we must learn how to live with it, taking every precaution excluding isolation from families.

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- **Similar:** Cont. As each day passes, I spend my time participating in advocacy programs – some through events hosted or promoted by the Long Term Care Ombudsman Program, and Texas-Caregivers for Compromise - because Isolation kills too (Facebook group), I have been interviewed by Spectrum News, and the Texas Tribune to bring awareness, and to provide a glimpse into the personal devastation of the visitation ban. We are human beings – asked to forfeit our right to see our vulnerable family members due to the threat of Covid-19, and to be satisfied with use of electronics to visit families, or to accept a visit through a glass windows As a society, we have essentially imprisoned disabled persons in licensed facilities, a category once reserved for those who are convicted of a crime worthy of punishment. My hope is that the webinar scheduled for this coming Wednesday will address the devastating effects of isolating loved ones in licensed facilities. I request your assistance in supporting families like mine who wish to reunite with vulnerable, precious family members. My Mom gave me the gift of life. Please find a way to open the doors to her life.
- **Similar:** Residents have a CRITICAL NEED for an essential family caregiver with access to their person. We are not just visitors. We are caregivers that help do all the errands and unskilled hygiene tasks that free aides to meet the medical and sanitary needs of other residents.
- **Similar:** Allowing every maintenance man, medical vendor to come into facility but not a designated family member is illogical. If someone is lucky enough to get hired as the dishwasher they can enter the building and see residents but not a family member!
- **Similar:** Is the state considering this: designating one family member per resident to be part of the resident’s care team – thus allowing one person to actually go into patient’s room?
- **Similar:** I have been the primary caregiver for my mom for the past 2 years, she is living in a limited assisted living facility, I usually spend anywhere from 1 to 4 hours a day, 7 days a week taking care of her, helping with PT, making sure she is eating and doing housekeeping.
- **Similar:** My first question is this: since his nutrition is vital for healing the wound, and since his depression and lack of one-on-one care (which he had for over five years) we would sincerely like help in allowing one sitter who has worked with him for all these years to Feed him for one hour a day. He is responsive to her and it would mean so much to us that we are doing everything we can to keep him alive during this pandemic. I’m not sure I phrased my question very well so I’m hoping that you understand we basically want to help our very dear uncle to eat.

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- **Similar:** Several other states have created ways for family caregivers or compassionate caregivers to be at the bedside of long term care residents. When will Texas do this?
- **Similar:** When will AL establish Essential Caregiver roles?
- **Similar:** Will the state consider an Essential Caregiver program to allow at least 1 family member per resident regular access to the resident to tend to their physical needs and provide the touch and mental stimulation they so desperately are missing? (The designated caregiver would follow the same rigorous guidelines as the staff and would be screened in exactly the same way as staff, plus subject to testing as needed.) If this is not being considered, can you please explain why?
- **Similar:** I have a mother in a nursing home and was wondering why with extreme caution can I not go see her.
- **Similar:** With EVIDENTIARY SYSTEMIC ISSUES (abuse, neglect and more) SPECIFIC in the LTC Facilities WORLD...HOW CAN Governor Abbott and HHS ``JUSTIFY" these Stringent Restrictions and "Loss of Rights" on the Essential Caregiver/the True Guardian (not paid professionals) AND the Resident/ Protected Person?
- **Similar:** WHY do you guys think it's not important for a family member to be able to dress up in a mask and gloves like the workers do that come from different agencies to work and a family member is not allowed to all they do is check a fever and they are allowed to go to work where do you think and how do you think COVID-19 got in the nursing home from staff. We love our love ones and definitely will not put them in harm's way.

### **14.How would a designated caregiver be different from a compassionate care visit?**

A compassionate caregiver visit was allowed by emergency rules if a facility has met Phase 1 visitation requirements and been approved by HHSC. The compassionate caregiver visit rules also required that the resident have a diagnosis by a physician as "failure to thrive." With the new visitation rules, the less restrictive essential caregiver visit replaces the compassionate care visit from Phase 1. Each resident is now allowed two permanent designated essential caregivers. Visits from essential caregivers are allowed in all facilities and is not dependent on a facility's approval status for expanded reopening visitation or the community's COVID-19 positivity rate. An essential caregiver is defined as: a family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed

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guardian, who is at least 18 years old and has been designated by the resident or legal representative to provide regular care and support to a resident. An essential caregiver does not have to refrain from physical contact with the person they are visiting. Essential caregiver visitors are trained by the facility on infection control policies and procedures, including any appropriate PPE.

### **15. Shouldn't residents and families and providers be part of the discussion? There are safe ways to reunite families that are no currently permitted.**

HHSC has received hundreds of letters, email and comments from families, stakeholder and the associations, and we learn more every time we participate in an event like this. Because COVID has decreased our opportunities to get together in person, we are doing everything possible to collect that feedback and participate in public forums. Additionally, HHSC staff meet nearly every week with long-term care industry providers and holds twice weekly calls with provider associations. We will continue to investigate ways to expand public input during this challenging time. Any stakeholders wishing to provide comment or input may email our Policy, Rules and Training team at [PolicyRulesTraining@hhsc.state.tx.us](mailto:PolicyRulesTraining@hhsc.state.tx.us).

- **Similar:** How does someone get to be a stakeholder and give input for the next set of requirements?
- **Similar:** It may be beneficial to have a zoom call with the long-term care providers. Some of the regulations and requirements are unrealistic and providers are set up for failure. We as providers want to do the right thing.
- **Similar:** My parents' home has had 49 staff with the virus. Family caregivers are mostly empty nesters and pose less of a threat. I've been told by a staff that they want family to be able to come in and help. Are the facilities being asked for their input on decisions?

HHSC staff meet weekly or every other week with long-term care industry providers to take questions and collect their input, and we will continue to solicit that input.

### **16. My concerns are regarding time, volume, and nursing facility lockdown. I do not believe attention is being paid to the unique challenges that nursing home residents are facing this year with regards to their right to vote. Even before the pandemic, nursing home residents faced obstacles in**

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**exercising their right to vote, and now because nursing homes are at ground zero for the virus and the majority of them still under lockdown, it is even more difficult for nursing home residents to vote.**

- **Similar:** Will Senator Zaffirini be addressing nursing home residents' right to vote and the obstacles involved this year due to the pandemic?

Living in a facility does not take away a resident's right to vote. Facilities must help residents exercise their rights. That includes helping a resident register to vote. Also, depending on the resident's preference, this includes helping each resident request a ballot to vote by mail or to vote in person early or on election day. If interested in voting in person, a resident can also vote by curbside at the voting site, which will limit the resident's exposure to COVID-19 that may be present in the community. In consultation with the Secretary of State's office, HHSC also recently issued guidance to provider on how to facilitate safe voting among residents.

**17. Families have faced many challenges accessing compassionate care visits for individuals who are "failing to thrive." Facilities are not sharing information about these visits and there is confusion about eligibility for these visits. Can you describe how these visits work and what kind of health care practitioner can diagnose "failure to thrive?"**

As stated previously, the Phase 1 requirements were designed to allow HHSC regulatory staff to monitor the impact of the visitation on the infection control levels in facilities, and there are areas with room for improvement. Residents and their loved ones can work with the Long-Term Care Ombudsman for assistance on this important issue.

With the new visitation rules, the less restrictive essential caregiver visit replaces the compassionate care visit from Phase 1. Each resident is allowed two permanent designated essential caregivers. Visits from essential caregivers are allowed in all facilities and is not dependent on a facility's approval status for expanded reopening visitation or the community's COVID-19 positivity rate. An essential caregiver is defined as: a family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed guardian, who is at least 18 years old and has been designated by the resident or legal representative to provide regular care and support to a resident. An essential caregiver does not have to refrain from physical contact with the person they are visiting. Essential

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caregiver visitors are trained by the facility on infection control policies and procedures, including any appropriate PPE.

### **18.If a resident is end of life care (Hospice), can a family member make a visit to the nursing home?**

Yes. Any resident who is actively dying can have in-person visitation under the end-of-life exception allowed by emergency rule. End of life visits are allowed regardless of whether a facility has met the requirements for expanded visitation or the resident's COVID status. Visitors in end of life situations are required to be screened and follow all requirements around infection control, including the proper use of personal protective equipment.

### **19.Staff can also be asymptomatic carriers, even if they pass screening, yet they are allowed to not only interact with our loved ones but also have physical contact with them. What is the difference between them undergoing screening and family members undergoing screening and being allowed to hug our loved ones?**

As noted, the new visitation rules allow physical contact during essential caregiver visits. Also, providers and their staff are doing much more than just the screening. Each facility has an infection control plan that outlines in detail how it is preventing and controlling infection. All staff have been trained on these plans and are required to follow those requirements. These include strict staffing training, limits on sharing staff, limits on which staff can assist which residents, and the proper use of PPE. Staff must be familiar with and follow these protocols and more.

Additionally, with the new federal testing requirements and the expansion of reopening visitation testing requirements, staff in many nursing facilities will be tested for COVID-19 on the mandated schedules, which can be twice a week. Currently, all the activity in each facility should be in compliance with the infection control plan for that facility, and the more frequently that occurs, the faster the state can implement broader visitation.

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**20. Why is family laundry restricted? We did it for weeks after the lockdown without any issues. Cross contamination in their laundry seems like more of a threat than us being careful in our home. Now our clothes will be lost or ruined.**

A family member or friend of a resident is not prohibited from doing laundry by emergency rule. Facilities are required to have policies and procedures in place for staff to handle, store, process, and transport all linens and laundry in accordance with national standards to produce hygienically clean laundry and prevent the spread of infection to the extent possible.

If families choose to handle resident laundry, the facility must designate a place outside the facility for them to pick it up and drop it off, and arrange for staff to take it in and out of the building.

**21. How is HHSC monitoring to ensure nursing homes are compliant with the new testing requirements, particularly the Routing Testing of Staff? The guidance requires facilities to monitor the positivity rate in its county at least every two weeks, but cannot implement a less frequent testing rate, unless the county's positivity rate remains lower for two weeks.**

HHSC has an extensive regulatory process for monitoring compliance with all infection control processes. For the new federal testing requirements, HHSC staff worked with CMS to establish the process for accountability in meeting the requirements. Facilities are already required to comply with the new guidance. HHSC staff have sent guidance to providers with directions from CMS on how to comply with the new requirements. HHSC will use the current regulatory process to monitor that implementation. Whenever HHSC staff are in a facility – whether for rapid response, survey, or a complaint investigation – they will be checking for compliance and issuing citations and direction as needed for compliance.

**Similar:** Our loved ones are dying because we aren't able to help take care of them like we used to nor are we able to check to make sure the staff is doing what they are supposed to be doing. Without the checks and balance that families used to have, the facilities are failing to provide the proper care and our loved ones are suffering and dying because of it.

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**Similar:** Why are staff not being tested weekly as they are in other states? If this is a matter of costs, can some of the money set aside recently by the state government not be used to cover this expense?

**22. They are still eating in their rooms being served 3 cold meals eating out of a Styrofoam container. Eating alone in their rooms they could easily choke no one would ever know. When are you going to open up the dining room, so they can eat with their meals with the staff around in case someone chokes?**

Group activities and dining are open for COVID negative residents as long as infection control measures are in place. The presence of active COVID-19 cases in the facility will affect how meals are provided. State and federal requirements allow for dining in a dining area if the residents maintain physical distance of at least six feet and in a group of no more than 10 at a time. Group dining will occur among residents with the same COVID-19 status, meaning that residents *without* a COVID-19 diagnosis should be grouped together. A resident at risk of choking or other risks related to eating and drinking must continue to receive services in accordance with his or her plan of care.

- **Similar:** Currently, they have the “residents” eating in their room alone. It concerns me that she will choke/aspirate and no one will be there.

**23. Maintaining dignity and quality of life is important. Residents are seeking services like hair and nail care, chaplain. They also need exercise and engagement like playing games. When can those be offered?**

Currently long-term care facilities can offer certain activities within the facility, if that activity aligns with the facility’s infection control plan. Residents can use the communal dining room with appropriate physical distancing, and exercise can be offered as well. Residents could be allowed outside of a facility with appropriate supervision to maintain the requirements of the infection control plan. Each facility has developed its plan based on their own resources and ability to implement and enforce the infection control plan. Salon services visits are allowable under the new expanded visitation guidelines if facilities and salon services visitors meet certain requirements.

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### **24. One Question I would like to have addressed is what the protocol is (if there is one) for informing family members when there are positive tests at a Long-Term Care facility, and are the residents ever told that there are cases present in the facility in which they reside.**

Federal law requires a nursing facility to inform residents, their representatives, and families of those residing in facilities by 5 p.m. the next calendar day after a single confirmed infection of COVID-19, or three or more residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other.

Per guidance from HHSC in the COVID-19 Response Plan for each facility type, nursing facilities, assisted living facilities, and intermediate care facilities are also expected to notify residents and their family members of a positive COVID-19 case in the facility and to have a communication plan in place for communicating inside and outside the facility in the event there is a COVID-19 outbreak.

- **Similar:** When will Chaplains beauty salon services be allowed back in facilities?
- **Similar:** Before the shut down and keepin families out my mom and grandfather was very vibrant and active they were walking on their own and able to get in and out of my car without assistance and now they both are so weak mentally and physically they are using a Walker full time and they are repeating themselves over and over they are very forgetful. I used to play games with them and carry them to church every week and even exercise with them. When are you going to let caregivers back in to help get my moms and grandfathers health back up maybe at least halfway where it used to be?
- **Similar:** If there are no activities, how are they supposed to keep a routine? There's nothing for them to do because of the restrictions. What are facilities doing about this?
- **Similar:** Why are nursing home residents not even allowed to be outside for fresh air? My mom went into a nursing home, which we have never been allowed to see inside, in April. Since that time, she has never seen the outside. She and her roommate are confined to their room 24 hours a day.

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### **25. When can we expect the backlog of applications for visitation to be handled? Can we get a list of facilities that have applications that are pending?**

Regarding the affidavits for visitation, there is currently no backlog. Regional staff have three days to approve or deny affidavits that are complete and not lacking any information or require follow up with the facility.

A list of facilities approved for general visitation is available at the below link:

<https://hhs.texas.gov/services/health/coronavirus-covid-19>

### **26. Is there a form or a process in place to alert the skilled nursing facility when compassionate care can take place? Do we simply rely on his primary physician to activate this and dispense orders to the nursing home?**

The new expanded visitation rules no longer require a diagnosis of failure to thrive. With the new visitation rules, the less restrictive essential caregiver visit replaces the compassionate care visit from Phase 1. Each resident is allowed two permanent designated essential caregivers. Visits from essential caregivers are allowed in all facilities and is not dependent on a facility's approval status for expanded reopening visitation or the community's COVID-19 positivity rate. An essential caregiver is defined as: a family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed guardian, who is at least 18 years old and has been designated by the resident or legal representative to provide regular care and support to a resident. An essential caregiver does not have to refrain from physical contact with the person they are visiting. Essential caregiver visitors are trained by the facility on infection control policies and procedures, including any appropriate PPE.

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### **27. What gave the state the right to take away resident rights without their permission?**

The residents in long-term care facilities do have a right to visitors, but state law does also allow for that right to be waived due to a public health emergency such as a pandemic.

### **28. My son is in an ICF, 2-person home and is totally deaf and blind with no understanding of this situation. Staff has very limited signing skills. A cookie cutter approach is of no benefit to him, i.e. outdoor, window, drive by visits, plexi glass etc. He needs tactile signing and home visits with his most ESSENTIAL person, his Mother. How are his needs going to be addressed especially in light of lowest COVID numbers in our area since April?**

HHSC staff have reached out to this person and are contacting the provider to assist. We encouraged those with similar circumstances to contact local IDD Ombudsman at 1-800-252-8154 or by email at [OmbudsmanIDD@hhsc.state.tx.us](mailto:OmbudsmanIDD@hhsc.state.tx.us).

### **29. The testing machines that each NH will receive are not being sent to ALF. If ALF are required to follow the same rules, then they will need these machines as well. However, not all ALF have nurses on duty to do these tests. Who will cover the costs to continue to supply these tests?**

At this time, assisted living facilities are not required to conduct routine or surveillance testing. The only requirement is when an outbreak occurs, defined as one positive test, the facility must engage its infection control and mitigation plan and follow all requirements to contain the outbreak. Assisted living facilities that must test should contract for appropriate medical personnel or labs to conduct the testing.

State administered testing is available for outbreaks for assisted living facilities, and when requested as an aspect of a rapid response team, that testing can be available immediately. If the test is state administered, the state will cover the cost, otherwise the facility must use its funds to cover that cost. However, the federal government announced that assisted living facilities can apply for provider relief funds under the CARES Act, and

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information about that program is available at  
<https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/index.html>

### **30. Why are people who live in a LTC facility different than those who are elderly and live at home? Those people living at home get to decide if they want to leave their home or not?**

The risk presented by the COVID-19 infection applies equally to all persons who are older and particularly for those who have existing health conditions, regardless of where they live. Older persons who live in their own homes are strongly encouraged by the CDC and all health authorities to stay home and strictly limit their movement about in society.

The difference for persons in a regulated facility is that they are living among other vulnerable individuals, nearly all of whom have some kind of existing health conditions, and by agreeing to live in that communal environment, individuals will often be required to alter their practices to help ensure the safety of all in that facility. Everyone must work together to ensure the facility remains safe, which increases opportunities for visitation.

### **31. Why are facilities taking in active COVID patients and how does this affect the facilities eligibility to qualify for Phase 1 visitation?**

CMS guidance requires facilities to accept patients regardless of diagnosis so long as they have the capacity to care for them, and HHSC has followed this guidance for Texas. The new expanded visitation guidance allows facilities with designated COVID-19 negative areas an opportunity to get visitation designation. They must have separate COVID-19 status cohort areas (positive, negative and unknown) and dedicated staff to work in each area. They can receive visitation designation for the COVID-19 negative area if they meet the criteria specified in rule.

In Phase 1 rules, they had to meet the criteria for the entire facility, not just a specific area. This meant that a facility accepting COVID-19 positive individuals into isolation wings could never meet the criteria for visitation under Phase 1. Under the new rules, if the entire facility is COVID-19 positive, it can still permit visitation that does not require visitation designation and is available to individuals who are COVID-19 positive, namely closed window visits and end-of-life visits.

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- **Similar:** How can a facility ever become COVID-19 free when residents are being admitted who are COVID-19 positive?
- **Similar:** Why can't a nursing facility that is working with the community and hospitals with a COVID-19 positive unit be eligible to participate in visitation? If a nursing facility has a COVID unit that accepts COVID positive residents from hospitals, they are penalized from participating in visitation.
- **Similar:** New admissions are placed in quarantine for 14 days, are these residents consider non-COVID?
- **Similar:** The United States Department of Justice has moved against placing people who are COVID-19 positive in long-term care facilities in other states. Yet, this continues to be common practice in Texas. Can you tell us when this might stop?

### **32. Why is there no distinction between facilities that have had few or no COVID cases versus facilities that have had high caseloads? Shouldn't those facilities who have proven their ability to keep the virus out have the opportunity to move to the next phase sooner than a facility which has had a major outbreak?**

The current expanded visitation requirements DO make a distinction between facilities that have or do not have active COVID cases or have designated areas to care for residents with COVID-19. The new expanded visitation guidance allows facilities with COVID-19 negative areas an opportunity to get visitation designation. They must have separate COVID-19 status cohort areas (positive, negative and unknown) and dedicated staff to work in each area. They can receive a general visitation designation for the COVID-19 negative area if they meet the criteria specified in rule.

In Phase 1 rules, they had to meet the criteria for the entire facility, not just a specific area. This meant that a facility accepting COVID-19 positive individuals could never meet the criteria for visitation under Phase 1.

### **33. Is there a way for a facility to apply to be a “test” location to test the safety of new looser guidelines?**

Not at this time, as Texas and federal laws and regulations to protect health and safety are required to apply to all facilities. Qualifying facilities that

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apply for phase 1 visitation are in effect providing information that HHSC is using to help guide visitation options.

- **Similar:** If facilities are eligible but choose not to allow visitation or certain form, is that ok?
- **Similar:** Why were NF and LTCF given THE CHOICE to reopen our not.
- **Similar:** Giving facilities the option to open rather than mandating is creating frustration. Will this change soon? What about the rights of patients to have visitors?
- **Similar:** Why were homes given the choice to opt out of reopening?
- **Similar:** How can we, as family members help ease the burden on the facility? Could get approval if we set up a process for those that visit to supervise another resident's visit to reduce need for staff to cover it? What if a facility never applies?
- **Similar:** What is being done to help those facilities that have not had a case at all? What is being done to require the facilities to apply for approval to start visitation?

### **34. Please outline all the stages of re-opening visitation and how those will occur, including benchmarks, until the facilities are open again like they were back in January of 2020.**

HHSC staff have not developed a road map for all stages of reopening, as those decisions must be driven by data on the spread of the disease. Rather than follow a prescribed standard, we must carefully monitor current conditions and adapt to those conditions as needed. We believe this provides greater flexibility for facilities while protecting the health and safety of the residents they serve.

### **35. Why is the mask good enough for staff but not good enough for family or designated caregivers?**

Many more safety measures are in place for staff than simply wearing masks. All staff are trained on and required to follow the facilities infection control plan requirements. Additionally, providers are required to follow strict staffing requirements limiting the sharing of staff between providers, limiting which groups of residents that certain staff have contact with, and the use of personal protective equipment to ensure the highest levels of safety.

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- **Similar:** Why can staff run all over town, work 2 jobs, travel, be with their family and then come to work in the facility and put their hands all over my loved one but I cannot.
- **Similar:** How can the mask be good enough for staff but a medical professional in full PPE can barely get through the front door.
- **Similar:** Why is access [*to inside a facility*] based solely on the criteria of the number of Covid-19 Cases? and why just for the (Non Essential People) deemed specifically the: Parents/Family Member, True Guardians (legal too). But these emergency rules, criteria do not apply to the host of (Essential People) i.e. "Pest control, Plumber, Attorney's, Judges, Medical residents, students under an academic affiliation agreement, LAW enforcement, Surveyors, DRTX, job applicants, and others"?
- **Similar:** My question is why can't the LTC facilities allow indoor visitation with physical touch? Following guidelines of wearing a mask, taking temperatures, etc. the exact guidelines that allow the nurses, aides, and all other facility staff to come and go?
- **Similar:** How do legislators expect homes with 100's of residents and staff ever expect to get to zero COVID cases if staff can go wherever they want after hours and be exposed and then return to work not knowing they were exposed?

**36. Since COVID we have had to hire a caregiver from an agency to go into the facility and take care of her. This makes no sense that an agency is allowed to send in some random person to take care of our loved ones, but the person that has been providing constant care for this person has now been denied to enter the building and provide the loving care they have become accustomed to from a loved one they know and love.**

Providers have strict staffing requirements related to screening, limiting the sharing of staff between providers, limiting the residents staff have contact with, and the use of personal protective equipment to ensure the highest levels of safety in compliance with the facility's detailed infection control plan. The emergency rules require a facility to minimize the movement of staff within the facility by designating staff to work with cohorts of residents who have tested positive for COVID-19.

- **Similar:** Does the governor and HHSC realize the financial impact this lockout is having on families. Many of us are having to hire private nurses, Private therapists, ask for additional assistance from the assisted living facility

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which's costs more, etc. to look after our loved ones. We are paying for services they are not getting. What's your answer and solution?

### **37. Social isolation is taking a physical and mental toll on residents. We are seeing major declines in resident health due to continued isolation. What exceptions can be made to address resident's failure to thrive in these conditions?**

HHSC staff are also concerned about the impact isolation and COVID are having on residents in all facilities. In the new visitation rules, essential caregiver visits are allowed. Each resident is allowed two permanent designated essential caregivers. Visits from essential caregivers are allowed in all facilities and is not dependent on a facility's approval status for expanded reopening visitation or the community's COVID-19 positivity rate. An essential caregiver is defined as: a family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed guardian, who is at least 18 years old and has been designated by the resident or legal representative to provide regular care and support to a resident. An essential caregiver does not have to refrain from physical contact with the person they are visiting. Essential caregiver visitors are trained by the facility on infection control policies and procedures, including any appropriate PPE.

### **38. What has HHSC done for those severely intellectually impaired who cannot comprehend virtual technology?**

The provider guidance in the preceding question also can be used to assist individuals with intellectual disabilities. Additionally, for assistance individuals can contact the local IDD Ombudsman at 1-800-252-8154 or by email at [OmbudsmanIDD@hhsc.state.tx.us](mailto:OmbudsmanIDD@hhsc.state.tx.us).

### **39. Where can we file complaints about long-term care facilities?**

Complaints can be made by contacting HHSC Complaint and Incident Intake at 1-800-458-9858 or online at [HHSC Complaint and Incident Intake](#).

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**40. It's my understanding that non-Phase I facilities can still schedule vehicle parades, but all residents must watch from the windows inside the building. The vehicle parade participants will stay inside the cars and drive around the property waving at residents inside the building. Phase I designated facilities can schedule vehicle parades and the residents can be outside within social distancing guidelines and with masks as long as the facility is still COVID free on the day of the scheduled parade. The vehicle parade participants will stay inside the car within social distance guidelines. Please provide clarification.**

Vehicle parades are specifically defined in emergency rules and are only permitted for facilities with an expanded visitation designation. As defined, a vehicle parade is a personal visit between a resident and one or more personal visitors, during which the resident remains outdoors on the nursing facility campus, and a visitor drives past in a vehicle.

If residents remain indoors and watch an activity such as a parade from a window, this is not a vehicle parade and the facility is not required to be designated for general visitation.

**41. I as family and caregiver/ power of attorney for both have not been in their rooms to make put their names in their clothes and bedding and towels since March. Their names wear off after many washes then the staff starts losing all the residents belongings. The staff doesn't put their names on their belongings. When can I go in to mark all their belongings?**

The new expanded visitation guidance allows residents to designate up to two essential family caregivers who will be provided necessary training to allow them to safely go inside a facility for a scheduled visit, including in the resident's room, to help ensure their loved one's physical, social and emotional needs are being met. Designated essential caregivers will not be required to maintain physical distancing, but only one caregiver can visit a resident at a time.

Individuals who believe their belongings have been lost or stolen and the facility has failed to address the issue can file a complaint by contacting HHSC Complaint and Incident Intake at 1-800-458-9858 or online at [HHSC Complaint and Incident Intake](#).

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**42. As of August 19, there are only 26 nursing facilities that are approved for visitation. One of the primary issues in allowing visitation cited by nursing facilities is a lack of access to weekly testing supplies, thus placing facilities in a difficult position with families who want to see their loved ones. What can HHSC do to assist procuring supplies in support of the agency's rule?**

The federal government is supplying Texas nursing facilities with point-of-care rapid test machines and kits. Additionally, the federal government has announced it is allocating additional funding, specifically for testing, from the provider relief fund.

**43. Some nursing homes report they are unable to test weekly due to financial constraints or a lack of testing resources. How is the state supporting testing efforts?**

- **Similar:** With long-term care facilities required to test their staff weekly before and during Phase I who is responsible for the cost of those test strips and the machine?

Nursing facilities are responsible for acquiring the testing resources needed to comply with new federal testing requirements. Most Texas facilities have received “point of care” testing machines from the federal government and are using those now. CMS also has provided more than \$5 billion in funding for nursing facilities for COVID response, include for testing.

The U.S. Health and Human Services agency has stated it is distributing \$2.5 billion directly for PPE, testing, and staffing at 15,400 nursing facilities across the country, including here in Texas. The amount each facility receives will be based on its bed count and whether it has received a point of care testing machine. An additional \$2 billion will go into value-based payments tied to COVID metrics that CMS sets. Additional information is available here:

<https://www.hhs.gov/about/news/2020/08/07/hhs-announces-allocations-of-cares-act-provider-relief-fund-for-nursing-homes.html>

Finally, the state is providing state administered testing for certain facilities, prioritizing rapid response over routine testing. HHSC has gathered

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information for nursing facilities related to reimbursement for testing costs, per this link:

<https://hhs.texas.gov/sites/default/files/documents/services/health/coronavirus-covid-19/nf-testing-reimbursement-faqs.pdf>

### **44. How will the State reimburse nursing facilities for the staff testing especially if it goes weekly?**

See response and testing reimbursement link above.

### **45. Please send site for me to find where POC machines have been distributed so far and where the additional ones are being distributed for a tentative date of 9/27.**

The link to CMS below contains information regarding the POC machines that have been scheduled to be distributed thus far.

<https://data.cms.gov/Special-Programs-Initiatives-COVID-19-Nursing-Home/Nursing-Home-Data-Point-of-Care-Device-Allocation/jbvf-tb74>

### **46. What criteria must be met for facilities to allow visitation under phase one?**

Criteria that must be met to allow visitation:

- no confirmed COVID-19 cases in staff for at least 14 consecutive days;
- no active COVID-19 cases in residents;
- if there have been previous cases of COVID-19 in staff or residents, HHSC LTCR has conducted a verification survey and confirmed the following:
  - all staff and individuals have fully recovered;
  - the facility has adequate staffing to continue care and monitor visits
  - the facility is in compliance with infection control requirements and emergency rules.
- In addition, nursing facilities must test all staff weekly.

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**47. What laws or rights are being violated (waived) for some of our most vulnerable elderly when their Durable and Medical Power of Attorney representatives are denied entry into a resident's home for almost six months?**

If you are concerned that a resident's rights have been violated, the Office of the LTC Ombudsman is available to assist in review and resolution of the issue. It can be reached at 1-800-252-2412 or by email at [ltoombudsman@hhsc.state.tx.us](mailto:ltoombudsman@hhsc.state.tx.us). Additionally, you can contact HHSC Complaint and Incident Intake at 1-800-458-9858 or online at [HHSC Complaint and Incident Intake](#).

**48. What legal liability is incurred by the POA for not ensuring that quality services are provided by the fees charged by many long-term care facilities? What legal liability is incurred by those with Durable or Medical POA for not removing residents from facilities infected by facility staff?**

Every situation must be evaluated on a case-by-case basis, and HHSC cannot speak to the legal liability of third parties. An individual with a legal obligation to a resident should review that obligation with legal counsel. In addition, if you are concerned that a resident's rights have been violated, the Office of the LTC Ombudsman is available to assist in review and resolution of the issue you've identified. You may reach them at 1-800-252-2412 or by email at [ltoombudsman@hhsc.state.tx.us](mailto:ltoombudsman@hhsc.state.tx.us). Additionally, you can contact HHSC Complaint and Incident Intake at 1-800-458-9858 or online at [HHSC Complaint and Incident Intake](#).

**49. Why is a facility allowed to provide services that are outside their scope of care? Are we not putting too much responsibility on the facility?**

LTC providers are not allowed to provide services that are outside their scope of care under the requirements and restrictions of their licenses. If individuals have concerns about facilities providing services beyond their scope of care, those concerns should be reported to HHSC Complaint and Incident Intake at 1-800-458-9858 or online at [HHSC Complaint and Incident Intake](#).

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**50. Will those visiting long term care facilities be informed of positive cases or history of positive cases before the visit? Will there be a website where people can go to see the status of facilities in current time?**

Self-reported facility data can be found on the HHSC website at the following link: <https://hhs.texas.gov/services/health/coronavirus-covid-19-Federal>.

**51. Why are corporate “for profits” allowed to dictate these recommendations as RULES? And why aren’t they at least consistent?**

LTC regulations are the same for providers regardless of ownership structure. HHSC values stakeholder input as an integral part of the rulemaking and policy process. Any stakeholders wishing to provide comment or input may email our Policy, Rules and Training team at [PolicyRulesTraining@hhsc.state.tx.us](mailto:PolicyRulesTraining@hhsc.state.tx.us).

**52. When can we hear/see a report from a committee member who has actually been inside a nursing home during this pandemic?**

Michelle Dionne-Vahalik, a panelist on the August 26 webinar, has entered multiple nursing and assisted living facilities throughout the pandemic to evaluate the conditions and infection control practices in these facilities. As the HHSC Associate Commissioner for Long-term Care Regulation, she has used her observations and ongoing communications with facility staff, as well as HHSC surveyors, to strengthen COVID-19 response plans and other guidance issued to providers to protect the health and safety of residents.

**53. I noticed a lag of data that appeared to be about 20% or better on reports by local jurisdictions vs the state agencies data. Why the difference?**

HHSC Regulatory Services collects COVID-related data from the providers that we regulate. Depending on what data the question is referencing, we might need to consult with our partners at DSHS regarding issues with the broader COVID data that they collect and publish.

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**54. Is it ok for nursing home/ long term facility to test for COVID-19 when they had positive employee, but resident has no positives in locked down mode?**

Yes, they are required to test staff regularly and to test both residents and staff when any new cases arise in the facility.

**55. What moral (or other) issues are being abandoned with respect to ensuring these elderly are not put under debilitating stress negatively and significantly affecting their cognitive and physical health and abilities?**

HHSC staff ensure that facilities provide for the health and safety of all residents, which includes their physical and mental health. Facilities should be providing levels of care that both comply with the infection control plan for that facility as well as a resident's plan of care.

**56. Now that young adults living in HCS group homes can go back to school, when will their parents and guardians be able to enter their houses to visit?**

Under the new emergency rules, HCS residents are now allowed to designate up to two essential caregivers who can make in-person, hands-on contact with them. Further detail on essential caregiver requirements is outlined above.

**57. Is Texas designating COVID facilities/wings?**

The state does not designate a facility's status. Rather, facilities voluntarily set up COVID designations. Facilities work with their local health department and communicate with HHSC when setting up a COVID designated unit.

**58. How are private pay facilities supported without the benefit of CMS assistance for things like testing machines, PPE and supplies?**

The below link lists numerous resources for facilities regarding testing reimbursement. Facilities are also encouraged to work with their HHSC Regional Office, the Texas Department of Emergency Management (TDEM), and DSHS for assistance to obtain resources related to COVID-19:

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<https://hhs.texas.gov/sites/default/files/documents/services/health/coronavirus-covid-19/nf-testing-reimbursement-faqs.pdf>

### **59. What financial help will there be for Assisted Living facilities that have been required to follow the same medical requirements as nursing home facilities who are receiving funds through CMS, Medicare and Medicaid?**

The federal government has announced that assisted living facilities can apply for provider relief funds available under the CARES Act and information about that program is available at:

<https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/index.html>

### **60. Why are the case numbers on the HHSC site allowed to be "self-reported" and two weeks behind?**

Facilities are required to report all COVID-related data, including staff and resident positive cases and any deaths due to COVID, to HHSC on a daily basis. A failure to report this data will result in a regulatory citation against a facility. HHSC staff review the data to address inconsistencies and basic quality control, but do not have the resources to conduct a full verification of each report to ensure complete accuracy of the data. For this reason, there is a two-week lag in the data posted.

### **61. Why must we wear masks when outside and 6 feet apart?**

CDC guidelines continue to recommend physical distancing of 6 feet as well as masks for protection. Facilities are required to follow CDC guidance related to infection control.

### **62. Why are residents who smoke allowed to congregate outside in common areas less than six feet apart with no masks? What are facilities doing to prevent this from happening?**

Residents do still have the right to smoke and can do so either one at a time or in small groups as long as infection control measures are maintained – the residents must wear face coverings to and from the designated smoking area, must maintain physical distancing of at least 6 feet between each other, must perform hand hygiene before and after going to the designated smoking area,

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staff must wear facemasks at all times, staff must clean and disinfect the designated smoking area before and after each use, etc.

If facilities deviate from the guidance above or you have concerns regarding a facility not following infection control guidance, please contact Complaint and Incident Intake at 1-800-458-9858 or online at [HHSC Complaint and Incident Intake](#).

### **63. What plans are being made to accommodate SSLCs for visitation as the Phase I protocols will never be met with hundreds of residents and staff on each campus?**

The expanded visitation rules for ICFs/IID specifically address large facilities such as the SSLCs and take into consideration the uniqueness of an SSLC campus, which helps ensure equal access to visitation for individuals whether they live in small or large facilities.

### **64. Who sanitizes between shifts of staff that are allowed to come and go daily?**

Facilities are required to sanitize on an ongoing basis throughout the day. Additionally, all long-term care providers are required to have strict infection control plans in place.

### **65. What are nursing facilities going to do about indoor visitation now that we are heading into flu season?**

Nursing facility rules state by Nov. 30 of each year, a nursing facility is required to offer an influenza vaccination to a resident and an employee in contact with residents, unless the vaccination is medically contraindicated by a physician or the employee or resident has refused the vaccination.

Under the new expanded visitation rules, they can continue permissible visitation during flu season while following all requirements for infection control as outlined above.

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**66. What legislation is needed to strike a balance between virus versus other very real health risks, and protect residents and their families by enacting an irrevocable essential caregiver right for residents of long term care facilities?**

HHSC is working closely with our state and federal partners to continue moving forward with visitation in LTC facilities in a way that best addresses the health and safety of residents.

**67. Per HHSC criteria in order to even apply for Phase 1 visitation, \*there can be No COVID positive residents and \*No COVID positive staff within the past 14 days. Denton SSLC has had COVID positive residents since March every single day though today. Denton SSLC has had COVID positive staff since March and every single day through today. How would we ever get to zero positive? In 164 days, we have not had ONE single day of COVID free.**

The new expanded visitation guidance allows facilities with COVID-19 negative areas to get HHSC approval for a general visitation designation. Facilities must have separate COVID-19 status cohort areas (positive, negative and unknown) and dedicated staff to work in each area. They can receive visitation designation for the COVID-19 negative area if they meet the criteria specified in rule. In Phase 1 rules, they had to meet the criteria for the entire facility, not just a specific area. This meant that a facility accepting COVID-19 positive individuals could never meet the criteria for visitation under Phase 1. The flexibility offered is that they can now meet the criteria for visitation based on a specific COVID-19 negative area and not the whole building.

- **Similar:** What will HHSC do to address the situation at Denton State Supported Living Center and give families a fighting chance to even qualify for Phase 1 visitation?
- **Similar:** The staff leave the facility every day they go wherever they want and associate with whoever they want and come back to work the next day and get their temperature taken to allow them to go be with our children. Why are they so different from us? We have been tested negative for the virus. Why can't we be with our son the same way that staff is? They are not sequestered at Denton SSLC.