

## PA Issues New Detailed, Comprehensive Guidelines for SNF Visitation and Activities

By: William D. Kennedy  
*Healthcare Alert*  
9.8.20

On September 3, 2020, the Pennsylvania Department of Health (DOH or the Department), which regulates PA-based skilled nursing facilities (SNFs), issued new guidance on the frequency of testing residents and staff, the relaxation of restricted visitor and dining policies and the steps SNFs must take to relax – but not completely abrogate – restrictions on activities, outings and the appearance at the facility of non-essential personnel, volunteers and visitors. While the DOH regulates only SNFs, its guidance may be insightful for other similar facilities such as assisted living facilities and personal care homes (regulated by the Department of Human Services) and continuing care retirement communities (regulated by the Department of Insurance).

### Outbreak Testing

The Department defines an “outbreak” as a single new positive COVID-19 test among residents (not including new transferees from local hospitals) or any employed or contracted staff member who works at the facility three (3) or more days a week.

Any such outbreak should trigger universal testing throughout the facility (although the Department notes such testing could be scaled back to the specific wing, unit or floor in which the outbreak occurred). Testing of symptomatic and exposed-persons remains as per the Department’s prior requirements from June 01, 2020.

### Baseline Screening

SNFs must screen residents daily for temperature and respiratory symptoms. Permitted visitors must be screened on arrival and staff must be screened at the beginning of each shift. Staff with “even mild symptoms of COVID-19” must cease resident care activities and leave the work site immediately after notifying their supervisor or occupational health services, in accordance with facility policy.

### Screening Based on Prevailing Community Rate of Incidence

The Department reminds that per CMS guidelines, SNFs should test staff based on the county positivity rate, which SNFs should check on the first and third Mondays of each month. City and state incidence rates can be found [here](#). The Department recommends this [chart](#) to determine screening.

### Baseline Maximum Restrictions

As a baseline, maximum restrictions mean that SNFs should restrict visitors, volunteers, non-essential personnel and contractors (*e.g.*, barbers). For continuing care retirement communities, the SNF operation should restrict cross-over visitors from the independent living, assisted living or personal care sections of the facility.

## Limited Relaxation of Visitors Based on Classification

The Department's new guidance provides an exemption from visitation restrictions to allow entrance to the facility by screened, masked and socially-distant healthcare providers, ombudsperson-representatives, Adult Protective Service investigators, compassionate caregivers, hospice workers, clergy, health officials and law enforcement. Each of these categories of visitors is permitted regardless of which "step" the facility engaged in.

## Compassionate Care Exemption from Restrictions

The Department recognizes that our time of prolonged isolation can adversely affect resident mental, emotional and physical health. The Department is using the federal definitions of "compassionate care" and "compassionate caregivers" to carve a balance between providing care to residents, and still restricting potentially-asymptomatic COVID-19 carriers from the facility. Under federal regulations, "compassionate care" is warranted under a written, measurable, reviewable and resident-specific plan of care when there are two or more "significant changes" in the resident's condition. A "significant change" is a "major decline" in a resident's status that (1) will not normally resolve without clinical or staff intervention, (2) which impacts more than one area of the resident's health and (3) requires an interdisciplinary review or revision of the resident's personal plan of care.

Under the Department's new guidance, up to two (2) compassionate caregivers can spend up to two (2) hours a day with a resident whose plan of care includes compassionate care. The compassionate caregiver may be a family member, friend, volunteer or staff member. To enter a facility for the first time, compassionate caregivers must provide proof of having tested negative for COVID-19 within no longer than 7 days (preferably, 72 hours). As with anyone entering the facility, the caregiver must be screened upon entrance, must wear a mask, must wash and sanitize their hands and must maintain social distancing (except for executing specific, close-encounter parts of the residents' plan-of-care). SNFs should observe the caregiver for the first visit, and thereafter, check periodically to ensure the caregiver's full compliance with regulations, practices, procedures and guidelines. Caregivers must also be entered on a log for contact tracing.

## Three Step Table of Relaxation of Restrictions on Activities & Visitation

The relaxation of restrictions on SNF visitation and activities is premised on the requirement of mask-wearing, social distancing and repeat hand sanitation. By intention, the Department's required stages – "Steps" – to relaxing restrictions are not directly related to the White House's "reopening phases" nor the Pennsylvania Governor's "color phases." Instead, the Department uses two primary components: (1) a detailed, prerequisite Implementation Plan, and (2) completion of three (3), 14-day minimum "Steps" during which restrictions are gradually relaxed.

The prerequisite before beginning Step 1 is to develop an Implementation Plan which must be posted on the SNF's website and be available to the public. The Implementation Plan must include:

- a testing plan that states when the facility completed its Universal Testing baseline, describes its capacity to do screening testing, the procedure for testing of non-essential staff and volunteers and a procedure for addressing residents or staff who decline (or are unable) to be tested;
- a plan to isolate COVID-19 positive-tested residents, which White and Williams previously discussed;
- a written protocol for screening each resident (daily), all staff (beginning of each shift) and all persons who enter the facility;
- a plan to ensure an adequate supply of personal protective equipment (PPE) for staff;

- a plan to ensure adequate staffing and a statement of the current status of adequate staffing (no staffing shortages and that the facility is not under a contingency staffing plan);
- a plan for relaxing restrictions on visitation consistent with the new guidelines; and
- a plan to slowly relax restrictions on congregate dining and activities within the three Steps.

The three Steps are defined so as to allow progression to the next Step if there are no new COVID-19 cases – “outbreaks” – within the two-week period, or, if there are new cases, to re-start a Step (or drop back to a prior Step).

Each of the Steps below consists of a 14-day minimum period of time with no outbreaks. Step 1 can begin after a SNF creates and publishes the implementation plan described above. During Step 1, the facility can relax specific areas of SNF life as set forth in the “Three Step Table of Relaxation of Restrictions on Activities & Visitation” table. If there is an outbreak of even just one resident or staff member during Step 1, the facility must stop all relaxation of restrictions and return to the maximum restrictions. A SNF must remain in Step 1 for 14 consecutive days without an outbreak before moving to Step 2.

Step 2 is another 14-day minimum period during which activities can be relaxed as shown in the table. During Step 2, if there is an outbreak, the facility must stop all relaxation of restrictions and return to the maximum restrictions for at least 14 days without an outbreak.

A SNF may move into Step 3 after 14 “clean” or “heathy” days in Step 2 without an outbreak. Still, if there is an outbreak in Step 3, the SNF must go back to baseline and progress through both Step 2 and Step 3.

Infected SNF residents must be cohorted or isolated from the general SNF population during each of the Steps. Infected SNF residents must abide by the maximum, baseline visitation restriction.

The “Three Step Table of Relaxation of Restrictions on Activities & Visitation” can be found [here](#).

With respect to all visitation at the baseline or any of the three Steps, SNFs must make a “visitation plan” with specific hours for visitation. They must also set aside “neutral zones” – pass-through areas (like lobbies or hallways) that are not already being used as red, yellow or green zones or other, perhaps temporarily unused parts of the facility that are not typically occupied by residents exposed to COVID-19 or those whose tests were positive.

To the extent weather and facilities permit, SNFs are encouraged to allow for outdoor visitation, with the use of awnings, tents and canopies to provide shade. Still, in addition to the pre-COVID-19 assistance that outdoor SNF engagements involve, outdoor vigilance requires staff or screened-volunteers (to the extent the SNF is at a stage that permits volunteer admission) to screen visitors, monitor compliance, offer face masks, and disinfect/wipe-down visitation areas frequently.

Based on the SNF’s square footage and ability to disinfect after visitors leave, SNFs must also determine a maximum number of visitors – indoors and/or outdoors. After that, SNFs must prioritize admitting visitors for Residents with diseases that cause progressive cognitive decline, such as dementia and Alzheimer’s. SNFs must provide face masks to any visitor without one, and must enforce all their COVID-19 policies with visitors. Children over age 2 must wear face masks, and can only be admitted if there is an adult who can manage their visit and ensure complete compliance.

SNFs must screen all incoming persons – whether visitors, volunteers, health care workers or otherwise. They must provide hand sanitizer throughout the facility. All visitors must sign-in and sign-out for contact tracing.

## Coverna (formerly Knowledge Center) Reporting

By 8:00 a.m. daily, all SNFs must complete the SNF Capacity survey and the survey data collection tool, including cumulative case counts.

## Other Guidance

The infection control specialists designated by the SNF must review PPE guidelines with all staff. SNFs should minimize resident interactions with other personnel and contractors performing essential services such as outside repair or maintenance personnel. SNFs must arrange for deliveries to areas where there is limited person-to-person interaction. All SNFs must insist on universal mask wearing and ensure cleaning practices comport with CDC guidelines.

If you have any questions please contact Bill Kennedy ([kennedyw@whiteandwilliams.com](mailto:kennedyw@whiteandwilliams.com); 215.864.6816) or another member of the Healthcare Group.

As we continue to monitor the novel coronavirus (COVID-19), White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates [here](#).

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.