



## Long-Term Care Regulatory Provider Letter

<b>Number:</b> PL 21-08 (replaces PL 20-44)
<b>Title:</b> COVID-19 Response - Expansion of Reopening Visitation
<b>Provider Types:</b> Nursing Facility (NF)
<b>Date Issued:</b> March 22, 2021

### 1.0 Subject and Purpose

As part of the continued reopening of the State of Texas, HHSC has adopted a new expanded emergency rule to allow for essential caregiver visits, end-of-life visits, limited indoor and outdoor visitation, and salon services visits in NFs.

### 2.0 Policy Details & Provider Responsibilities

NFs are required to allow end-of-life visits, visits of persons providing critical assistance, including essential caregivers for residents, and outdoor visits. NFs meeting certain criteria are also required to allow indoor and visits. This letter describes the requirements for these visits. See the expansion of reopening visitation rule at 26 TAC §554.2803 for the complete list of requirements.

The new visitation rules provide more flexibility, including:

- Essential caregiver visits are permitted for all residents with any COVID-19 status.
- Up to two essential caregivers may visit each resident at a time.
- Essential caregiver visitors and salon services visitors are no longer required to provide documentation of a negative COVID-19 test result.
- The definition of an end-of-life visit has been expanded for more flexibility on when a resident is considered at the end-of-life so a resident's family and loved ones have more opportunity to visit.
- Indoor visitation is no longer limited to areas with a plexiglass barrier or booth.

- Outdoor visitation no longer depends on a NF being without positive COVID-19 cases in staff or residents.
- NFs are no longer required to submit an attestation form or receive an approved visitation designation.

Any reference to 'indoor visits' and 'outdoor visits' in this letter refer to visits between a resident and a personal visitor. Essential caregiver and end-of-life visits can also occur indoors or outdoors but are referred to as essential caregiver visits or end-of-life visits.

As a reminder, a NF is required to screen all visitors for signs or symptoms of COVID-19. A visitor may not participate in a visit if the visitor has signs and symptoms of COVID-19 or an active COVID-19 infection.

### **3.0 Essential Caregiver Visits**

An essential caregiver visit is defined as a personal visit between a resident and a designated essential caregiver, permitted in all facilities for all residents with any COVID-19 status, including:

- COVID-19 negative;
- unknown COVID-19 status; or
- COVID-19 positive.

A negative COVID-19 test result is no longer required for essential caregivers. A NF must not require an essential caregiver visitor to provide documentation of a negative test result prior to visitation. A NF may offer to conduct the COVID-19 test at the facility, but it must be at no cost to the visitor. A visitor has the right to refuse a COVID-19 test.

NFs must allow essential caregiver visits. The following requirements apply to essential caregiver visits:

- Up to two essential caregivers can be designated per resident and up to two essential caregivers can visit each resident at a time.
- An essential caregiver visit is not allowed if the visitor has signs or symptoms of COVID-19 or an active COVID-19 infection.
- Each essential caregiver visit must be by appointment.
- Essential caregiver visits can occur outdoors, in the resident's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other residents. A resident's preference for where the visit occurs should be accommodated unless

doing so would place the resident or visitor at risk or potentially violate another resident's rights.

- The essential caregiver must be trained by the NF on the appropriate use of personal protective equipment (PPE).
- The resident must wear a facemask or cloth face covering over both the mouth and nose (if tolerated) throughout the visit.
- A resident may remove their facemask or face covering to eat or drink during a visit, but a visitor must not remove their facemask or face covering during the visit or while in the facility or on the facility campus.
- Essential caregivers do not have to maintain physical distancing between themselves and the resident they are visiting but must maintain physical distancing between themselves and all other persons in the facility.

The NF must:

- develop and enforce essential caregiver visitation policies and procedures, including:
  - training the essential caregivers on the proper use of PPE; and
  - informing the essential caregivers of expectations related to infection control.
- inform the essential caregivers of applicable policies, procedures, and requirements and maintain documentation of the essential caregiver's agreement to follow them;
- approve the essential caregiver visitor's facemask and any other appropriate PPE recommended by CDC guidance and the NF's policy; or provide a caregiver with an approved facemask and any other appropriate PPE;
- document the identity of each essential caregiver in the resident's file and create an essential caregiver badge;
- maintain a record of each essential caregiver visit, including:
  - the date and time of the arrival and departure;
  - the name of the essential caregiver;
  - the name of the resident being visited; and
  - attestation that the identity of the essential caregiver visitor was confirmed.

The essential caregiver visitor must:

- wear a facemask over both the mouth and nose when visiting a resident with COVID-19 negative status;
- wear all PPE recommended by the Centers for Disease Control and Prevention (CDC) and per the facility's policies and procedures when visiting a resident with positive or unknown COVID-19 status; and
  - Full PPE includes a facemask over both the mouth and nose, face shield or goggles, gloves, and gown.
  - Essential caregivers are not required to wear an N95 or KN95 mask.
- not participate in visits if the designated essential caregiver has signs and symptoms of COVID-19 or an active COVID-19 infection.

A NF may deny an essential caregiver the right to visit if they fail to comply with all visitation requirements.

#### **4.0 End-of-life Visits**

End-of-life visits are defined as a personal visit between a visitor and a resident who is receiving hospice services; who is at or near end of life, with or without receiving hospice services; or whose prognosis does not indicate recovery. A NF should not wait until death is imminent to allow an end-of-life visit.

A NF must allow end-of-life visits for all residents with any COVID-19 status, including:

- COVID-19 negative;
- unknown COVID-19 status; or
- COVID-19 positive.

End-of-life visitors do not have to maintain physical distancing between themselves and the resident they are visiting, but they must maintain physical distancing between themselves and all other persons in the facility.

NFs, residents, and visitors are encouraged to make use of essential caregiver visits, indoor visits, and outdoor visits for all other types of compassionate care situations when the resident's situation might not meet the definition of end-of-life.

## 5.0 Indoor Visits

A NF meeting the following criteria must permit indoor visitation:

- has separate cohort areas for residents with COVID-19 positive, COVID-19 negative, or unknown COVID-19 status; and
- has staff assigned to each cohort that does not change from one day to another.

A NF that meets the above requirements and is located in a county with a COVID-19 positivity rate of 10 percent or less must allow indoor visitation for all residents with COVID-19 negative status.

A NF that meets the above requirements, is located in a county with a COVID-19 positivity rate of more than 10 percent and at least 70 percent of residents that are fully-vaccinated<sup>1</sup>, must allow indoor visitation for residents with COVID-19 negative status.

A NF that meets the above requirements, is located in a county with a COVID-19 positivity rate of more than 10 percent and less than 70 percent of residents that are fully-vaccinated, must permit indoor visitation for fully-vaccinated residents with COVID-19 negative status. In this case, residents that are not fully-vaccinated must limit their participation in visitation to outdoor visits (for COVID-19 negative residents), essential caregiver visits, and end-of-life visits .

To determine the percentage of residents that are fully-vaccinated, a NF must count the total number of residents that are fully-vaccinated and divide by the current census minus the number of short-stay residents. Multiply the product by 100. For example, if a NF has 108 residents that are fully-vaccinated, 140 residents in the current census, and 10 short-stay residents, the percentage of fully-vaccinated residents would be 83.0%, as shown below:

$$108 \text{ fully-vaccinated residents} \div (140 \text{ current census} - 10 \text{ short-stay residents}) = 0.83$$

$$0.83 \times 100 = 83.0\%$$

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<sup>1</sup> The CDC defines fully-vaccinated to be at least two weeks after received a single-dose vaccine, or at least two weeks after receiving the second dose of a two-dose vaccine.

A nursing facility that had at least one confirmed COVID-19 case in the last 14 consecutive days in staff working in the area, unit, wing, hall, or building that accommodates residents who are COVID-19 negative, or at least one confirmed facility-acquired case in residents in the COVID-19 negative area, unit, wing, hall, or building can continue to permit indoor visitation if all of the following conditions are met:

- outbreak testing is being conducted in accordance with 42 CFR §483.80(h);
- the first round of outbreak testing revealed no additional COVID-19 cases in other areas, units, wings, halls, or buildings that accommodate residents who are COVID-19 negative; and
- indoor visitation is suspended for the affected area, unit, wing, hall, or building that accommodates residents who are COVID-19 negative until the facility meets the criteria to discontinue outbreak testing.

A plexiglass barrier or booth is no longer required for indoor visitation. A NF is no longer required to submit an attestation form or receive approval from HHSC prior to permitting indoor visitation. NF staff monitoring visits is no longer required.

The COVID-19 county positivity rate can be found at:

<https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg>.

A NF may use the county positivity rate provided by the county as long as the county positivity rate is updated at least weekly.

The following requirements apply to indoor visits:

- A NF must ensure equal access by all residents to visitors.
- Visitation appointments must be scheduled to allow time for cleaning and sanitization of the visitation area between visits.
- A NF must ensure physical distancing of at least six feet is maintained between visitors and all other residents and staff at all times and limit the number of visitors and residents in a visitation area as needed to ensure physical distancing is maintained.
- Visits are permitted only where adequate space is available and can take place in the resident's room or other area of the facility separated from other residents. The NF must limit the movement of the visitor through the facility to ensure interaction with other residents is minimized.

- Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.
- A NF must provide hand washing stations, or hand sanitizer, to the visitor and resident before and after visits.

During an indoor visit:

- visitors must wear a facemask or face covering over both the mouth and nose throughout the visit;
- residents must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit, unless the resident removes the facemask to eat or drink; and
- the visitors and the resident must practice proper hand hygiene before and after the visit.

A fully-vaccinated resident wearing a well-fitting face covering or facemask may choose to have physical contact with their visitor during an indoor visit. Otherwise, physical contact between a resident and a visitor participating in an indoor visit is prohibited.

## **6.0 Outdoor Visits**

All NFs must permit outdoor visitation for all residents who are COVID-19 negative.

A NF is no longer required to submit an attestation form or receive approval from HHSC prior to permitting outdoor visitation. Staff are no longer required to monitor visits or escort visitors to and from the visitation area.

The following requirements apply to outdoor visits:

- A NF must ensure equal access by all residents to visitors.
- Visitation appointments must be scheduled to allow time for cleaning and sanitization of the visitation area between visits.
- A NF must ensure physical distancing of at least six feet is maintained between visitors and all other residents and staff at all times and limit the number of visitors and residents in a visitation area as needed to ensure physical distancing is maintained.
- Visits are permitted only where adequate space is available. The NF must limit the movement of the visitor through the facility campus to ensure interaction with other residents is minimized.

- Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.
- A NF must provide hand washing stations, or hand sanitizer, to the visitor and resident before and after visits.

During an outdoor visit:

- visitors must wear a facemask or face covering over both the mouth and nose throughout the visit;
- residents must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit, unless the resident removes the facemask to eat or drink; and
- the visitors and the resident must practice proper hand hygiene before and after the visit.

A fully-vaccinated resident wearing a well-fitting face covering or facemask may choose to have physical contact with their visitor during an outdoor visit. Otherwise, physical contact between a resident and a visitor participating in an outdoor visit is prohibited.

## **7.0 Salon Services Visits**

A NF can allow a salon services visitor to enter the facility to provide services to a resident with COVID-19 negative status.

A negative COVID-19 test result is no longer required for salon services visitors unless the salon services visitor is an employee of the NF or contract service provider.

The following requirements apply to salon services visits:

- The salon services visitor agrees to comply with the most current version of the Minimum Standard Health Protocols – Checklist for Cosmetology Salons/Hair Salons, located on website: <https://open.texas.gov/>.
- The visit may occur outdoors, in the resident's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other residents.
- Salon services visitors do not have to maintain physical distancing between themselves and each resident they are visiting but must



maintain physical distancing between themselves and all other persons in the facility.

- A salon services visitor must wear a facemask over both the mouth and nose and any other appropriate PPE recommended by CDC guidance and the facility's policy while in the facility.
- A salon services visitor must not participate in visits if the salon services visitor has signs and symptoms of COVID-19 or an active COVID-19 infection.
- The resident must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

The NF must:

- develop and enforce salon services visitation policies and procedures, including:
  - a written agreement that the salon services visitor understands and agrees to follow the applicable policies, procedures, and requirements;
  - training each salon services visitor on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;
  - expectations regarding using only designated entrances and exits as directed; and
  - limiting visitation to the area designated by the facility.
- inform the salon services visitor of applicable policies, procedures, and requirements;
- approve the visitor's facemask or provide an approved facemask;
- maintain documentation of the salon services visitor's agreement to follow the applicable policies, procedures, and requirements;
- document the identity of each salon services visitor in the facility's records and verify the identity of the salon services visitor by creating a salon services visitor badge; and
- maintain a record of each salon services visit, including:
  - the date and time of the arrival and departure of the salon services visitor;
  - the name of the salon services visitor;
  - the name of each resident being visited; and
  - attestation that the identity of the salon services visitor was confirmed.

Salon services visitors can be denied the right to visit if they fail to comply with all visitation requirements.

## **8.0 Attachments**

NF Visitation Rules CMS and HHSC Side-by-side Comparison

## **9.0 Contact Information**

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) or call (512) 438-3161.

## Attachment 1 - NF Visitation Rules CMS and HHSC Side-by-side Comparison

<b>Visitation Rule</b>	<b>CMS Nursing Facility Visitation Guidance Memo – 3/10/21</b>	<b>Previous Nursing Facility Visitation Rule</b>	<b>Current Nursing Facility Visitation Rule</b>
Compassionate care visits (Indoor or Outdoor)	<p>Must allow for all residents and all COVID status.</p> <p>Testing cannot be condition of visitation.</p>	<p>Must allow Essential caregiver (ECG) for all residents, except COVID+ residents.</p> <p>Must allow for all residents at end-of-life.</p> <p>Negative test required before first visit and then based on NF testing strategy.</p>	<p>Must allow ECG for all residents and all COVID status.</p> <p>Must allow for all residents at end-of-life.</p> <p>Testing not required for visitors.</p>
Indoor General Visitation	<p>Must allow for residents except:</p> <ul style="list-style-type: none"> <li>• Unvaccinated residents if in a red county (positivity rate over 10%) and &lt;70% of residents in the facility are vaccinated.</li> <li>• Residents that are COVID+ or in quarantine.</li> <li>• Temporarily during new outbreaks, with limited exceptions.</li> </ul>	<p>Must allow for residents except:</p> <ul style="list-style-type: none"> <li>• in a red county.</li> <li>• if the facility has any outbreak in negative cohort areas.</li> <li>• Residents that are COVID+ or in quarantine.</li> </ul>	<p>Must allow for residents except:</p> <ul style="list-style-type: none"> <li>• Unvaccinated residents if in a red county (positivity rate over 10%) and &lt;70% of residents in the facility are vaccinated.</li> <li>• Residents that are COVID+ or in quarantine.</li> <li>• Temporarily during new outbreaks, with limited exceptions.</li> </ul>
Outdoor General Visitation	Must allow for all residents with COVID negative status.	Must allow for all residents with COVID negative status except during outbreak.	Must allow for all residents with COVID negative status.
Close/Personal contact	Allows close/personal contact:	Allows close/personal contact only during compassionate care visits.	Allows close/personal contact:

	<ul style="list-style-type: none"> <li>• Between fully vaccinated residents and any visitor.</li> <li>• Between fully vaccinated residents and a compassionate care visitor.</li> <li>• Between an unvaccinated resident and a compassionate care visitor.</li> </ul>		<ul style="list-style-type: none"> <li>• Between fully vaccinated residents and any visitor.</li> <li>• Between fully vaccinated residents and a compassionate care visitor.</li> <li>• Between an unvaccinated resident and a compassionate care visitor.</li> </ul>
Masks/Face covering	Required for all visitation.	Required for all visitation.	Required for all visitation.
Hand hygiene before and after the visit	Required for resident and visitor.	Required for resident and visitor.	Required for resident and visitor.
Monitoring and escorting visitors	Not required.	Required.	Not required.
Visitor screening	Required and must deny entry if signs or symptoms of COVID or if visitor exposed to COVID-19 in last 14 days, even if vaccinated.	Required and must deny entry if signs or symptoms of COVID or if visitor exposed to COVID-19 in last 14 days.	Required and must deny entry if signs or symptoms of COVID or if visitor exposed to COVID-19 in last 14 days, even if vaccinated.
Vaccination	May not be used as a condition of visitation.	Not addressed.	May not be used as a condition of visitation.
Visitation designation	Does not require HHSC to approve general visitation.	Requires submission of attestation form that facility meets criteria for general visitation.	Does not require HHSC to approve general visitation.