

DATE: May 11, 2020
TO: Hospital Discharge Planners, Directors of Nursing, Nursing Home Administrators, and Adult Care Facility Administrators
FROM: New York State Department of Health

Directive:
**Hospital Discharges and Admissions
to Nursing Homes and Adult Care Facilities**

Please distribute immediately to:
**Hospital Discharge Planners, Directors of Nursing, Nursing Home
Administrators, and Adult Care Facility Administrators**

This Directive supplements the prior Department of Health Advisory concerning hospital discharges to nursing homes (NHs) and adult care facilities (ACFs), as well as the DAL sent on April 29, 2020.

As was clearly stated in the April 29, 2020 DAL, Public Health Law and regulations require that all residents receive the care they need. Specifically, pursuant to state law and regulations NHs and ACFs must only accept and retain those residents for whom the facility can provide adequate care.

With respect to COVID-19, state and federal rules and regulations require that NHs adhere to appropriate safety measures including, but not limited to:

- Restricting visitation at all nursing homes and adult care facilities, except for imminent end-of-life situations.
- Requiring personal protective equipment (PPE) for staff at all nursing homes and adult care facilities, including surgical-grade facemasks, gloves, gowns, and eye protection (e.g., goggles or face shield) when interacting with COVID-19 suspected or confirmed residents. Staff must wear at least a facemask during interactions with all residents.
- Requiring all staff to be checked for COVID-19 symptoms (e.g., fever, cough, difficulty breathing, or other respiratory symptoms), including temperature checks upon the start of each shift and every 12 hours while on duty.
- Requiring facilities to notify all residents and their family members within 24 hours if any resident tests positive for COVID-19 or any resident suffers a COVID-19 related death.
- Having protocols to separate residents into cohorts of positive, negative, and unknown as well as separate staffing teams to deal with COVID-positive residents and non-positive residents. In order to effectuate this policy, nursing home facilities should transfer residents within a facility, to another long-term care facility, or to another non-certified location if they are unable to successfully separate outpatients in individual facilities.

Hospital discharge planning staff, NHs, and ACFs should carefully review this guidance with all staff directly involved in resident admission, transfer, and discharge. Residents are deemed appropriate for return upon a determination by the hospital physician or designee that the resident is medically stable for return.

To this end, hospital discharge planners **must** confirm to the facility to which the patient is being discharged (whether NH or ACF), by telephone, that the resident is medically stable for discharge. Comprehensive discharge instructions must be provided by the hospital prior to the transport of a resident to the NH or ACF, and all discharge planning requirements must be followed.

In accordance with 10 NYCRR 415.26, NHs must only accept and retain those residents for whom the facility can provide adequate care. ACFs have an obligation to provide care to residents and ensure their life, health, safety and welfare are protected, pursuant to Social Services Law § 461-c(2-a) and 18 NYCRR 487.7 and 488.7. **Therefore, no hospital shall discharge a patient to a NH or ACF unless the facility administrator has first certified that they are able to provide that patient with adequate care. In addition, hospitals must test any patient who may be discharged to a NH or ACF for COVID-19, using a molecular test for SARS-Cov-2 RNA. No hospital shall discharge a patient who has been diagnosed with COVID-19 to a NH or ACF, until that patient has received one negative test result using such testing method.**

If a NH or ACF is not able to provide adequate care to a resident at any time during that resident's stay, the NH or ACF must call their respective regional office of the Department of Health to provide necessary information and assist with any relocation needs, including but not limited to assistance with arranging transportation to an alternate facility that can provide adequate care for the resident.

However, with the exception of patients of hospitals who have not yet tested negative, a NH or ACF cannot deny admission of a resident based solely on a resident's COVID-19 diagnosis.

In the event a patient is stable and appropriate for discharge, and the NH or ACF is unable to certify that they can provide adequate care, a hospital may, in the event the capacity is necessary for more acute patients, choose to call their respective regional office of the Department of Health to arrange discharge and transportation to an alternate facility that can provide adequate care for the resident.

There are facilities available for COVID-19 positive patients that require skilled nursing. These facilities are available around the state, and providers should contact the Department of Health to identify the appropriate setting.

Information for healthcare providers on topics related to COVID-19 is readily available on the Department of Health public website at <https://coronavirus.health.ny.gov/information-healthcare-providers>. As always, standard precautions must be maintained, and environmental cleaning made a priority, during this time of pandemic infection.

Additionally, all NH and ACF administrators are required to certify to the Department of Health no later than Friday, 5:00 p.m. on May 15, 2020 that the administrator understands and is in compliance with this directive and will continue to adhere to all directives issued by the Department of Health or the Commissioner of Health as appropriate.

Such certification, and any future certification relative to patient care for any individual discharged is made pursuant to section 210.45 of the Penal Code and is punishable as a criminal offense.

Thank you for your ongoing support and cooperation in responding to COVID-19 concern.