



COMPLIANCE CONSULTING  
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# Memorandum

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As the COVID-19 pandemic continues to ravage many nursing homes throughout the country, the Centers for Medicare and Medicaid Services (CMS) has announced new efforts to combat the spread of the virus and assist facilities in responding to this public health emergency. Specifically, CMS is reinforcing existing reporting requirements of infectious diseases, establishing COVID-19 reporting from nursing homes directly to the Centers for Disease Control and Prevention (CDC), and requiring nursing homes to inform residents and resident representatives of certain COVID-19 developments in their facilities.

Current requirements at 42 CFR 483.30 and guidance from the CDC already require nursing homes to notify state or local health departments of:

1. residents or staff with suspected or confirmed COVID-19,
2. residents with severe respiratory infection resulting in hospitalization or death, and
3. situations in which three or more residents or staff members have new-onset respiratory symptoms occurring within 72 hours of each other.

At present, the data from these reports are not collected by CMS, CDC, or the Federal Emergency Management Agency (FEMA). CMS is now requiring nursing homes to provide this information directly to the CDC's National Health Safety Network (NHSN) system. The collection of this information will be used to support the surveillance of COVID-19 locally and nationally, monitor trends in infection rates, and inform public health policies and actions. Further information about the NHSN reporting requirement will be forthcoming.

**CMS is also now requiring facilities to directly notify residents and resident representatives – within 12 hours – of:**

1. the occurrence of a single confirmed infection of COVID-19, or
2. the occurrence of three or more residents or staff with a new onset of respiratory symptoms that occur within 72 hours.

In addition, CMS is expecting facilities to provide:

1. weekly updates to residents and resident representatives regarding existing COVID-19 infections,
2. updates to residents and resident representatives each subsequent time a confirmed infection of COVID-19 is identified,
3. updates to residents and resident representatives whenever three or more residents or staff members develop a new onset of respiratory symptoms within 72 hours, and
4. information on actions implemented by the facility to prevent, reduce, or mitigate the risks to residents, including information on what changes have been made to the facility's normal operations.

As with other communications to residents, representatives, and families, this information must be reported in accordance with existing privacy regulations and statutes.

Failure to report resident or staff incidences of communicable disease or infection, including confirmed COVID-19 cases (or persons under investigation for COVID-19), or failure to provide timely notification to residents and their representatives of these incidences, as required, could result in fines of at least \$1,000 per week.

Per CMS, facilities are encouraged to begin reporting confirmed cases to residents and families immediately, while more details will be put in place "very soon." We will provide further details as CMS makes them available.