

California Commission on Aging

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GAVIN NEWSOM, Governor

Executive Director
Karol Swartzlander

June 5, 2020

The Honorable Lena Gonzalez
Chair, Senate Special Committee on Emergency Response
State Capitol, Room 2068
Sacramento, CA 95814

RE: Informational hearing on Skilled Nursing Facilities during the COVID-19 Pandemic

Dear Chair Gonzalez:

The California Commission on Aging (CCoA) is designated in statute as the principal advocate for older adults before the Administration, the Legislature, and state and local agencies, charged with advising on issues affecting the health and well-being of older Californians. Our members are appointed by the Governor, Senate Rules Committee and Assembly Speaker, representing a wealth of expertise from both within and outside the field of aging.

California's experience with COVID-19 and the disproportionate impacts on older adults, and particularly on residents of skilled nursing facilities (facilities) and communities of color, warrants an aggressive re-direct of both policy and resources to prevent further devastation. With 79% of COVID deaths occurring in the over-65 population and more than 40% of those deaths occurring in nursing homes, the need for change could not be more clear. Protecting vulnerable residents, regardless of age or ability, should be the State's foremost goal during the crisis.

Of primary importance is the issue of leadership from the State in communicating a coordinated and cohesive response to guide facilities in their handling of the pandemic. Without question, the COVID-19 experience is unprecedented and the lack of guidance from the federal government left the states largely unprepared and without the requisite guidance or support. The resulting stream of California Department of Public Health (CDPH) 'All Facilities Letters' with often contradictory or confusing requirements has complicated how facilities addressed issues around admitting COVID-19 positive patients, protecting and supporting residents and staff, testing, isolating residents, mitigation plan creation and more.

Many of the state directives are sound: initiate testing of residents and staff; house COVID-19 positive patients in separate facilities established solely for positive cases; protect residents by avoiding communal activities and require them to remain safely in their rooms. Unfortunately, sound directives have not been accompanied by the supports needed for implementation. For example, tests and Personal Protective Equipment (PPE) are not yet available statewide, nearly three months after the Stay-At-Home orders went into effect.

Additionally, few communities have the capacity to set up separate COVID-19 positive quarters to care for exposed residents. Resident isolation has created hardships for many, with the

emotional impacts of isolation from family and community having serious and potentially long-lasting effects. Without the ability to safely separate COVID-19 positive residents from others, a number of skilled nursing facilities have stopped new admissions altogether during the pandemic to avoid exposure of current residents. At the same time, some facilities have welcomed the incoming transfer of COVID-19 positive patients, potentially placing their longer-term residents at risk.

Additional concerns arise for congregate living as communities begin to open-up across the state.

- As shopping and restaurants resume operations, will older adults in congregate settings remain under the Stay-at-Home orders with no access to in-person visits from family members and friends?
- Skilled nursing facilities have been directed to initiate testing. The State's guidance calls for baseline tests, as well as for weekly re-tests as is also called for in recent Centers for Medicare and Medicaid Services. However, there do not appear to be sufficient test kits at the local level to continue recommended testing.
- Once testing is underway, what should happen when a resident tests positive and no alternate setting exists to house infected patients? Will CDPH provide information on sites available in a county where COVID-19 positive patients could receive care?
- How will the State backfill staff shortages when COVID-19 positive staff are identified?
- Who provides the direction to skilled nursing facilities? CDPH and/or the local public health officer?

If there are no new or ongoing cases for 28 days (as recommended by CMS), some initial steps toward reopening could begin:

1. Require ongoing use of masks and other infection control measures and social distancing.
2. Allow for small in-house resident gatherings, limited and dispersed dining arrangements, controlled access to hair salons, exercise equipment, etc.
3. Allow for limited family visits in supervised settings – where social distancing and protections (barriers, etc.) are in place.

Finally, additional support is needed from the State in the area of technology. The State must continue to help facilities identify technology solutions to meet the need for ongoing resident and staff screenings and infection control. Technology innovations are also needed to keep residents connected to family and friends through the pandemic and beyond.

CCoA believes flexibility is needed in CDPH's guidance for skilled nursing facilities until tests become widely available and clear directives are provided at the local level regarding testing schedules. Without adequate solutions to protect and support congregate care staff, the flexibility CDPH has provided regarding staff training and hiring has been helpful and should be maintained.

Thank you for scheduling the June 10 informational hearing on the COVID-19 outbreak in skilled nursing facilities and the opportunity to submit written comments on this critical topic.

Sincerely,



Betsy Butler
Chair

CC: Richard Figueroa, Deputy Cabinet Secretary
Dr. Mark Ghaly, Secretary, California Health and Human Services Agency
Dr. Brad Gilbert, Director, Department of Health Care Services
Dr. Sonia Y. Angell, Director, Department of Public Health
Joe Rodrigues, State Long-Term Care Ombudsman