



March 7, 2022

*VIA EMAIL*

The Honorable Mary Bassett, MD  
Commissioner  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

Dear Commissioner Bassett:

With the recent decline in COVID cases, LeadingAge New York's non-profit and public providers of long-term care and the individuals they serve are eager for the Department of Health (DOH) to update its guidance to reflect current conditions. As the state begins to relax requirements for the community and school settings, we urge you to revisit various guidance for long term care settings as well. Our members have been working diligently for two years now to protect their residents, patients and staff from COVID. We are acutely aware of the importance of infection prevention and control measures, but some guidance is outdated, and/or impedes the ability of our residents and patients to live full lives with dignity.

Below are specific items that we ask you to review and re-consider.

### **Screening**

- When DOH instituted the requirement that visitors of nursing home residents produce a negative test within 24 hours of visiting, it was indicated that this policy would be re-assessed as time went on. While we appreciate this approach as a best practice, nursing homes should not have to dedicate resources to the verification of this information for all visitors, given the declining COVID cases statewide. Rather, the Department and facilities should simply encourage families to continue to self-test prior to visiting.
- Adult care facilities (ACFs) and nursing home staff must undergo daily screening of symptoms. This requires significant staff effort but is not a useful tool at this point in the pandemic. Staff in these settings know the symptoms of COVID and should be permitted to monitor themselves.

If federal guidance prohibits modification to this requirement for nursing homes, we urge the Department to explore how to support conducting screening in the most efficient way. For example, DOH could explore the use of Civil Monetary Penalties funds or the CDC Nursing Home Infrastructure and Strike Team Funding to assist nursing homes in purchasing technologies to conduct screening.

Additionally, nursing homes have been cited for failing to re-screen a staff person who remains in the facility beyond their 12-hour shift and does not get re-screened. This level of screening seems unnecessary if the person does not leave the facility, and the survey approach unnecessarily punitive.

Similarly, we question whether the daily symptom monitoring and temperature-taking of ACFs residents is necessary at this time. This interrupts daily activities and makes their home feel institutional.

### **Guidance to be Updated**

- DOH has directed ACFs to continue to adhere to the [Infection Prevention Control Checklist](#) issued in April 2020. While this was a helpful tool in 2020, conditions have changed since that time, and we urge the Department to update the guidance to reflect current practice, particularly since it is used in survey.
- Salon guidance for nursing homes and ACFs was issued in Nov. 2020, and we understand that, aside from the updates in testing for the related settings, it is still in effect. The guidance limits access to salon services and results in an inefficient, uncomfortable and cumbersome experience for all. Receiving a salon service is important to the dignity and quality of life of residents in these settings, so the importance of these details should not be minimized. We urge you to update or rescind the guidance.
- DOH should revisit restrictions on interaction between ACF residents and participants of Social Day programs operated by the ACF; as well as participants of adult day health care and residents of the nursing home operating the program. As COVID cases decline, the opportunity to come together can provide residents and participants greater opportunities to socialize and enjoy additional activities and entertainment.

### **HERDs Reporting**

Lastly, we have raised many times the burden that the daily HERDS survey poses for ACF and nursing home staff. We are approaching *two full years* of the survey with only a few holidays off in the past year. Now is the time to reduce the frequency and scope of this data collection. The Department can begin by allowing providers the weekends and holidays off from the requirement.

Bear in mind that the HERDS survey is somewhat duplicative of the detailed NHSN data provided weekly to CDC by nursing homes. Further, the survey can be pared back to reflect where we are in the pandemic. For example, vaccination status is no longer changing much on a day to day or even weekly basis. It may no longer make sense to ask how many employees refused to be vaccinated, and how many have medical exemptions. Supplemental questions regarding PPE or number of employees lost to the vaccine mandate are also stable and unlikely to change at this point.

Given the many other reporting requirements providers must adhere to, and the critical workforce shortage, we urge you to consider refocusing the Department's data collection efforts to those items that are essential or that change notably. Further, we urge that the Department make use of the data that is being reported elsewhere to the degree possible, to eliminate duplication in reporting. Data likely to be useful at this time is new cases, periodic data on vaccination rates of residents and staff, and whether providers need assistance related to management of COVID or staffing. LeadingAge NY would be happy to work with the Department to update the HERDS survey questions to capture the current most relevant information.

In conclusion, we have learned in these past two years that COVID ebbs and flows, the virus mutates, and the science evolves. Guidance for long term care settings needs to adjust to these changes in a timely manner. We

don't know what variant is on the horizon, or what next fall will bring. Moving forward, we need to ensure that we are nimble enough to enjoy these periods of relative quiet, knowing that we may need to shift again in the future. Residents of ACFs and nursing homes and their families should be given an opportunity to live more freely and expand their activities, while it is still reasonably safe. Staff should likewise be given a chance to catch their breath and focus on resident needs. Any requirements on their time that do not have a direct impact on resident quality of life should be re-evaluated. Our efforts must focus on using our scarce resources wisely, and ensuring our workforce is available to ensure the provision of quality care and quality of life for the people they serve.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Clyne". The signature is fluid and cursive, with the first name "Jim" and last name "Clyne" clearly distinguishable.

James W. Clyne, Jr.  
President & CEO

Cc: Angela Profeta  
Rebecca Wood  
Rachel Baker  
Kristin Proud  
Jake Wilkinson  
Adam Herbst  
Valerie Deetz