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To: Licensed Rest Homes

From: Elizabeth Daake Kelley, MPH, MBA, Director, BHCSQ

Date: July 14, 2020

RE: Guidance for Rest Home Surveillance Testing

A. Overview

On June 30, 2020, the Department of Public Health (the “Department”) issued a memorandum on long-term care surveillance testing (“LTC Surveillance Testing Guidance”). This guidance provides direction to rest homes as to the Department’s expectations for that testing.

To demonstrate compliance with this guidance, a rest home must meet the reporting requirements described below and must comply with any requests for documentation with respect to the requirements of this guidance. Failure to comply with the requirements of this guidance or failure to cooperate with any audits or document requests with respect to this guidance may result in penalties.

This guidance applies to rest homes that are licensed by DPH pursuant to G.L. c. 111, § 71.

B. Baseline Staff Testing

To protect the health and safety of long term care residents and staff against the spread of COVID-19 all long term care settings should conduct new baseline testing of staff no later than July 19, 2020, and adopt a surveillance testing program based on the results of the baseline staff testing, as outlined below.

Staff Who Must be Tested

For the purposes of this guidance, the term “Staff” shall include all persons, paid or unpaid, working or volunteering at the rest home’s physical location, who have the potential for exposure to residents or to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air. Staff includes, but is not limited to, physicians, nurses, nursing assistants, therapists, technicians, dental personnel, pharmacists, laboratory personnel, autopsy personnel, students and trainees, contractual personnel including those employed by temporary nurse staffing agencies, and persons not directly involved in resident care (such as clerical, dietary, house-keeping, laundry, security,

maintenance or billing staff, chaplains, and volunteers) but potentially exposed to infectious agents that can be transmitted to and from Staff and residents. Staff does not include persons who work entirely remotely or off-site, employees on leave or otherwise not working for the entirety of the relevant Testing Period (such as those on paid family medical leave), or staffing provided at the Commonwealth's expense (such as those provided by the Executive Office of Health and Human Service (EOHHS) through a clinical rapid response team or the Massachusetts National Guard). Further, because the LTC Surveillance Testing Guidance does not recommend that Staff or residents who have previously tested positive for COVID-19 get retested as part of baseline or surveillance testing, Staff shall not include persons who have previously tested positive for COVID-19.

Rest homes may not allow Staff who are not paid by, directly employed by or contracted to work for the facility, (such as volunteers, traveling or mobile health care providers, or unpaid students and trainees) to work or volunteer at the physical location of the rest home during any given Testing Period, unless they: 1) agree to be tested through the Staff testing being facilitated by the rest home for the relevant Testing Period, or 2) obtain testing within the relevant Testing Period and provide documented evidence of the completed testing. However, nothing in this guidance may be construed to prevent appropriate medical personnel from accessing the rest home to render emergency medical services.

For the purposes of this guidance, the relevant "Testing Period" will differ based on whether the rest home is in the process of completing baseline testing or ongoing surveillance testing, based on the level of surveillance testing required. The relevant Testing Period is identified for each scenario below.

Staff members who test positive for COVID-19 must not work or volunteer, and rest homes may not permit staff members to work or volunteer, at the rest home's physical location while potentially infectious, as determined in accordance with the most recent infection control guidance issued by the Department. Any residents or other Staff members who were close contacts, as such term is defined in the LTC Surveillance Testing Guidance, with the positive Staff member must ALSO be tested, in addition to any baseline or ongoing surveillance testing requirements the rest home is required to complete.

Baseline Testing

Rest homes are required to conduct baseline testing for COVID-19 on a minimum of 90 percent of their Staff who worked, provided services, or volunteered at least once at the rest home's physical location between July 1, 2020 and July 19, 2020. This time period shall be the relevant Testing Period for baseline testing. To comply with this requirement, the baseline testing must be completed by July 19, 2020, and reported in accordance with the requirements in this guidance.

If the baseline testing results indicate that a rest home has no new positive COVID-19 Staff, the rest home will be required to follow the bi-weekly surveillance testing requirements, as further described in this guidance.

If the baseline testing results indicate that a rest home has one or more positive COVID-19 Staff member(s), the rest home will be required to follow the weekly surveillance testing requirements, as described in this guidance. Further, the rest home will be required to conduct a

one-time baseline test of all residents who continue to be residents of the rest home and were physically present at the facility for any portion of the relevant Testing Period.

Bi-weekly Surveillance Testing

Rest homes whose baseline testing indicates no positive COVID-19 Staff cases must complete bi-weekly surveillance testing, beginning July 23, 2020. Each bi-weekly Testing Period will last for two weeks, from Thursday at 7:00 a.m. through the second subsequent Thursday at 6:59 a.m., with the first bi-weekly Testing Period running from July 23, 2020 through August 6, 2020. The number of Staff that must be tested in each bi-weekly Testing Period depends on the regional 7 day new case rate of COVID-19 per 100,000 residents for the [Emergency Medical Services \(EMS\) Region](#) in which the rest home is located, as such regions have been determined by the Department in accordance with 105 CMR 170.101: *Regional Boundaries*.

For rest homes in an EMS Region with a regional 7 day new case rate below 40 cases per 100,000 residents, the rest home must conduct bi-weekly surveillance testing of at least 30 percent of Staff who worked or volunteered at the rest home's physical location one or more times during the relevant bi-weekly Testing Period. The sample of Staff tested in each bi-weekly Testing Period must be representative of the Staff at the facility, spanning different shifts, days, units, varying staff positions (such as responsible persons, maintenance workers, office staff, etc.), and employment statuses (such as per diem, full-time, part-time, volunteer, contract worker, etc.).

For rest homes in an EMS Region with a regional transmittal level at or above 40 cases per 100,000 residents, the rest home must conduct bi-weekly surveillance testing of at least 90 percent of Staff who worked or volunteered at the rest home's physical location one or more times during the relevant bi-weekly Testing Period.

Regional transmittal levels are updated in the COVID-19 Weekly Public Health Report, issued by the Department, which can be found here: <https://www.mass.gov/info-details/covid-19-response-reporting# covid-19-weekly-public-health-report->. Rest homes must complete bi-weekly testing in accordance with the regional transmittal level at which their EMS Region was listed as of the first day of that bi-weekly Testing Period, even if the regional transmittal level crosses above or below the 40 cases per 100,000 residents threshold during the bi-weekly Testing Period. Rest homes may use the reference document "[EMS Regions for Long Term Care Facilities](#)" to help identify their EMS Region.

If a rest home identifies any COVID-19 positive Staff or residents during a bi-weekly Testing Period, the facility must implement weekly surveillance testing, as described in this guidance, beginning the first Thursday following the positive test. In other words, a rest home must switch to weekly testing beginning in the next weekly Testing Period, even if the rest home's bi-weekly Testing Period would have otherwise continued through the following week.

Weekly Surveillance Testing

Rest homes whose baseline testing indicates one or more positive COVID-19 Staff members or who fail to complete the required baseline testing, must complete weekly surveillance testing, beginning July 23, 2020. Such rest homes must conduct weekly surveillance testing of at least 90 percent of Staff who worked or volunteered one or more times at the rest home's physical location during the relevant weekly Testing Period. Each weekly Testing Period will last for one week, from Thursday at 7:00 a.m. through the following Thursday at 6:59 a.m., with the first weekly Testing Period running from July 23, 2020 through July 30, 2020.

Rest homes required to complete weekly surveillance testing under this guidance should continue conducting such weekly testing of all Staff working in any given weekly Testing Period until there are no new positive COVID-19 Staff for two consecutive weekly Testing Periods at the rest home, at which point the rest home may switch to bi-weekly surveillance testing.

Rest Homes Must Facilitate Tests

All rest homes must secure or facilitate all COVID-19 testing of Staff required by this guidance and must ensure that the testing is conducted at no cost to the Staff members who must be tested. Rest homes may not require or encourage Staff members to obtain testing on their own time or at their own cost. However, Staff members may choose to facilitate and obtain their own testing under certain circumstances (such as through their own primary care practitioner or a rapid testing site due to possible COVID-19 exposure or symptoms). In such circumstances, the rest home may count those Staff members who were tested elsewhere toward the number of total Staff tested in any given Testing Period in which they also worked at the rest home provided that the facility has documented evidence of the completed testing for such Staff members, and provided that each individual Staff member is counted only once in any given week.

Each rest home must provide written notice to all Staff that: 1) they will be required to participate in baseline and surveillance COVID-19 testing, as required under this guidance; 2) they will be required to be tested for COVID-19 if they were a close contact, as such term is described in the LTC Surveillance Testing Guidance, of any Staff member or resident who tests positive at any point for the duration of the testing policy established by this guidance; and 3) the facility is prohibited from encouraging, requesting, requiring, or pressuring the Staff to obtain such testing on their own time or at their own cost.

Rest homes may secure or facilitate testing for its Staff using any available method that includes the collection of specimens sufficient for diagnostic testing, the processing of a COVID-19 diagnostic test by a FDA approved method, and the furnishing of results to all appropriate parties in accordance with Department and CDC guidance. The test used must be able to detect SARS-CoV-2 virus, with a polymerase chain reaction (PCR) of greater than 95 percent sensitivity and greater than 90 percent specificity, within 48 hours of conducting the test. Antibody test results do not satisfy this guidance's testing requirements and should not be used to diagnose an active SARS-CoV-2 infection. Rest homes may partner or contract with entities including, but not limited to, hospitals, community health centers, ambulance/emergency medical services providers, clinical laboratories, or other entities able to provide COVID-19 testing services. Rest homes may, but are not required to, partner with MassHealth-enrolled providers.

Resident Testing

Beginning July 1, 2020, DPH is requiring that, at a minimum, all residents who are exposed to or who show symptoms consistent with COVID-19, except those who have previously tested positive for COVID-19, must be tested for COVID-19.

If any Staff test positive during the baseline Testing Period, all residents will be considered exposed and at least 90 percent must be tested as a baseline by July 30, 2020. Further, any resident who was a close contact, as such term is described in the LTC Surveillance Testing Guidance, of a Staff member or another resident who tested positive for COVID-19, will be considered exposed and must be tested. Rest homes are not responsible for testing residents who are absent from the rest home but should test residents upon their return to the facility if they may have been exposed outside of the facility or are showing symptoms, and if the setting from which the resident is returning did not conduct testing themselves.

If a resident who has been exposed or is showing symptoms consistent with COVID-19 the resident must be quarantined until they are no longer a potential vector for the virus, in accordance with the most recent infection control guidance issued by DPH. COVID-19 testing of residents must also occur as soon as practicable after symptoms begin to show, after exposure, or after the rest home reasonably becomes aware of such symptoms or exposure, and should be reported in the rest home's next report, as required by this provider bulletin.

For the purposes of this guidance, if a facility admits an individual, including from a hospital, with any COVID-19 status and this individual is tested within the first 14 days of admission this individual's COVID-19 status, by itself, will not trigger additional testing requirements for the rest home.

Reporting Requirements and Attestation Requirements

Rest homes must complete the attestation and reporting requirements of this guidance, as further described below.

An administrator or other appropriate representative from each rest home must submit a signed and scanned copy of the executed attestation, attached to this guidance as Appendix A, as well as a report, including all of the information described below, using the prescribed reporting form, via [online survey](#), by 12:00 p.m. on Monday, July 20, 2020, after the baseline Testing Period. Facilities must also submit weekly reporting using the same online survey by 12:00 p.m. each Friday, beginning July 31, 2020. Rest homes must submit such weekly reporting, even if they are in a bi-weekly Testing Period. **A login is not required to access the online survey.**

Facilities should report no more than one test result per person. If a person was tested multiple times in the prior week, the facility should report the most recent test result.

Specifically, the rest home must report:

1. The number of total Staff who worked during the baseline Testing Period or during the previous week, as applicable, and the number of such Staff who:

- a. tested positive for COVID-19;
 - b. tested negative for COVID-19;
 - c. had inconclusive results;
 - d. have previously tested positive for COVID-19;
 - e. were not tested and have not previously tested positive for COVID-19;
 - f. were tested through a method that was secured, facilitated, or funded by the rest home; and
 - g. were tested through a method that was not secured, facilitated, or funded by the rest home.
2. The number of total residents who were exposed to COVID-19 or that showed COVID-19 symptoms during the baseline Testing Period or the previous week, as applicable, and the number of such residents who:
 - a. tested positive for COVID-19;
 - b. tested negative for COVID-19; and
 - c. had inconclusive results.
 3. The number of total new residents who were admitted during the baseline Testing Period or the previous week, as applicable, and the number of such residents who:
 - a. are confirmed positive for COVID-19;
 - b. are confirmed negative for COVID-19; and
 - c. are of unknown status.
 4. All partner providers or entities involved in any of the completed testing secured, facilitated, or funded by the rest home.
 5. An affirmation that the rest home provided notice to all Staff that, at a minimum, informed them that they may be required to receive COVID-19 testing and that the facility may not encourage, request, require, or pressure Staff to obtain testing at their own cost or on their own time.
 6. An affirmation that, if the rest home was testing a sampling of its Staff under the bi-weekly regional testing regimen, the Staff tested were chosen from a representative sample of the Staff, as required by this guidance.
 7. Such other information as required and requested by the Department through the online survey submission tool.

Rest homes that have not received complete test results by the relevant reporting deadline must still submit the report by the reporting deadline, report as pending any test results that they are still waiting to receive, and resubmit the report with the required testing results through the online survey within two business days of receipt of the completed results.

All information included in the reports is subject to verification by the Department. Failure to submit reports or attestations in accordance with this guidance or failure to comply with document requests with respect to the requirements under this guidance may result in sanctions,

up to and including suspension of licensure and in accordance with 105 CMR 153.00: Licensure Procedure and Suitability Requirements for Long-Term Care Facilities.

Fines or Other Penalties

If the Department determines that a rest home has failed to comply with this guidance, the Department may issue a Statement of Deficiency or impose a fine up to \$50 per day per violation, as set out in 105 CMR 153.024(C).

Such fines may be applied in instances where the Department has determined that a rest home's failure to engage in appropriate surveillance testing constitutes a failure to provide for the safety and well-being of residents, or has otherwise failed to comply with G.L. c. 111, §§ 71, 72 or 72C.

If a rest home fails to test the required percent of its Staff in any given Testing Period or fails to test the percent of residents required to be tested, the Department may determine that each untested Staff member or resident will constitute a separate violation, as will every day of the relevant Testing Period that such Staff member or resident went untested. Each separate violation will be subject to a monetary penalty under 105 CMR 153.024(C) of \$50 per violation per day.

Other violations that may result in penalties in accordance with 105 CMR 153.00 include but are not limited to:

1. Failing to submit the reporting or attestation requirements in accordance with this guidance;
2. Failing to comply with any Department document requests with respect to any requirements under this guidance;
3. Requiring, pressuring, encouraging, or requesting Staff to obtain COVID-19 testing on their own time or at their own cost;
4. Failing to provide written notice to Staff, in accordance with this guidance, that their employing rest home may not encourage, request, require, or pressure them to obtain COVID-19 testing on their own time or at their own cost;
5. Failing to obtain COVID-19 testing for residents in a timely manner after COVID-19 exposure or after showing symptoms, unless such resident has refused testing; and
6. False statements in reporting or attestations submitted to the Department under this guidance.

As appropriate, the Department will refer a rest home to the Attorney General's Office.

Long term care providers in Massachusetts are encouraged to monitor the CMS and CDC website for up-to-date information and resources:

- CMS website: <https://www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/Current-Emergencies/Current-Emergencies-page>
- CDC website: <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/index.html>

Additionally, please visit DPH's website that provides up-to-date information on COVID-19 in Massachusetts: <https://www.mass.gov/2019coronavirus>.

Appendix A

Licensed Rest Home Attestation to COVID-19 Baseline Testing Policies

I, _____, hereby certify under the pains and penalties of perjury that I am the administrator or other duly authorized officer or representative of _____, located at _____, (hereinafter “rest home”) and that the information provided in this attestation is a true and accurate representation of the COVID-19 testing procedure implemented and COVID-19 testing results at such rest home.

Specifically, I represent and warrant that:

The rest home completed the required testing for COVID-19 for the rest home’s Staff that worked during the relevant Testing Period beginning, _____, in accordance with all applicable requirements of DPH’s Guidance for Long-Term Care Surveillance Testing

The report accompanying this attestation and submitted to DPH via the Center for Health Information and Analysis (CHIA) submissions portal to demonstrate compliance with the requirements of DPH Guidance for Long Term Care Surveillance Testing are complete and accurate.

Under the pains and penalties of perjury, I hereby certify that the above information is true and correct.

Printed Name: _____

Title: _____

Signature: _____

Date: _____

Please submit a scanned copy of the executed attestation via the CHIA [online survey tool](https://chiasubmissions.chia.state.ma.us/SSO/Account/Login?ReturnUrl=%2fssso)<https://chiasubmissions.chia.state.ma.us/SSO/Account/Login?ReturnUrl=%2fssso>, as well as the accompanying report, by the baseline testing and weekly reporting deadlines established in DPH’s Guidance for Long Term Care Surveillance Testing.

The rest home should maintain the original executed copy of each submitted attestation, along with the accompanying documentation, receipts, invoices, and report, in its files.