



## Long-Term Care Regulatory Provider Letter

<b>Number:</b> PL 2021-20 (replaces PL 2021-08)
<b>Title:</b> COVID-19 Response - Expansion of Reopening Visitation
<b>Provider Types:</b> Nursing Facility (NF)
<b>Date Issued:</b> June 1, 2021

### 1.0 Subject and Purpose

As part of the continued reopening of the State of Texas, HHSC has adopted a new expanded emergency rule to allow for essential caregiver visits, end-of-life visits, limited indoor and outdoor visitation, and salon services visits in NFs.

### 2.0 Policy Details & Provider Responsibilities

NFs are required to allow end-of-life visits, visits of persons providing critical assistance, including essential caregivers for residents, and outdoor visits. NFs meeting certain criteria are also required to allow indoor visits. This letter describes the requirements for these visits. See the expansion of reopening visitation rule at 26 TAC §554.2803 for the complete list of requirements.

The new visitation rules continue to provide more flexibility, including:

- Visits are no longer required to be scheduled in advance. A visit must be facilitated in a way that allows time for cleaning and sanitization of the visitation area between visits and to ensure infection prevention and control measures are followed.
- Essential caregiver visits are permitted for all residents with any COVID-19 status.
- Up to two essential caregivers may visit each resident at a time.
- A NF is no longer required to maintain an essential caregiver visitation log.

- Personal visitors are not required to provide documentation of a negative COVID-19 test result or COVID-19 vaccination status.
- The definition of an end-of-life visit continues to offer flexibility on when a resident is considered at the end-of-life so a resident's family and loved ones have more opportunity to visit.
- Indoor visitation is not limited to areas with a plexiglass barrier or booth and no longer depends on a NF having designated staff for each COVID-19 cohort area.
- Outdoor visitation does not depend on a NF being without positive COVID-19 cases in staff or residents.
- NFs are not required to submit an attestation form or receive an approved visitation designation.
- NFs must develop, enforce, and inform residents and visitors of the NF visitation policies and procedures related to a visitor and a resident wearing a face covering or facemask during a personal visit. A NF's policies and procedures on facemasks must meet the minimum standards in CMS requirements and CDC guidance as applicable.

Any reference to 'indoor visits' and 'outdoor visits' in this letter refers to visits between a resident and a personal visitor. Essential caregiver and end-of-life visits can also occur indoors or outdoors but are referred to as essential caregiver visits or end-of-life visits.

As a reminder, a NF is required to screen all visitors for signs or symptoms of COVID-19. A visitor may not participate in a visit if the visitor has signs and symptoms of COVID-19 or an active COVID-19 infection.

### **3.0 COVID-19 Vaccination Status**

A NF may ask about a visitor's COVID-19 vaccination status but must not require a personal visitor to provide documentation of their COVID-19 vaccination status as a condition of visitation or to enter the facility. A personal visitor may refuse to provide information about their vaccination status.

A person is considered fully-vaccinated if they have received the second dose in a two-dose COVID-19 vaccination series or received one dose of a single-dose COVID-19 vaccination and it has been at least 14 days since receiving the vaccination. A personal visitor who does not meet this

definition of fully-vaccinated, including a visitor who refuses to provide information about their vaccination status, is considered to be unvaccinated.

#### **4.0 Essential Caregiver Visits**

An essential caregiver visit is defined as a personal visit between a resident and a designated essential caregiver, and is permitted in all facilities for all residents with any COVID-19 status, including:

- COVID-19 negative;
- unknown COVID-19 status; or
- COVID-19 positive.

A negative COVID-19 test result is not required for essential caregivers. A NF must not require an essential caregiver visitor to provide documentation of a negative test result prior to visitation. A NF may offer to conduct the COVID-19 test at the facility, but it must be at no cost to the visitor. A visitor has the right to refuse a COVID-19 test.

NFs must allow essential caregiver visits. The following requirements apply to essential caregiver visits:

- Up to two essential caregivers can be designated per resident and up to two essential caregivers can visit each resident at a time.
- An essential caregiver visit is not allowed if the visitor has signs or symptoms of COVID-19 or an active COVID-19 infection.
- Essential caregiver visits can occur outdoors, in the resident's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other residents. A resident's preference for where the visit occurs should be accommodated unless doing so would place the resident or visitor at risk or potentially violate another resident's rights.
- The essential caregiver must be trained by the NF on the appropriate use of personal protective equipment (PPE).
- Per CMS and CDC, a resident who is not fully-vaccinated must wear a facemask or cloth face covering over both the mouth and nose (if tolerated) throughout the visit.
- Per CMS and CDC, a resident who is fully-vaccinated and visiting with a personal visitor who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.

- Per CMS and CDC, a visitor who is fully-vaccinated and visiting with a resident who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- A resident may remove their facemask or face covering to eat or drink during a visit.
- A fully-vaccinated visitor may remove their facemask or cloth face covering to eat or drink during a visit if the visit is taking place in a private visitation area and both the resident and visitor are fully-vaccinated.
- Per CMS and CDC, a visitor must wear a facemask or face covering while in any area of the facility or on the facility campus, except in the private visitation area.
- Essential caregivers do not have to maintain physical distancing between themselves and the resident they are visiting but must maintain physical distancing between themselves and all other persons in the facility.

The NF must:

- develop and enforce essential caregiver visitation policies and procedures, including:
  - training the essential caregivers on the proper use of PPE; and
  - informing the essential caregivers of expectations related to infection control.
- inform the essential caregivers of applicable policies, procedures, and requirements and maintain documentation of the essential caregiver's agreement to follow them; and
- document the identity of each essential caregiver in the resident's file and create an essential caregiver badge.

The essential caregiver visitor must:

- Wear a facemask or face covering over both the mouth and nose when visiting a resident who is not fully-vaccinated and when in any area of the facility except the private visitation area, per CMS and CDC requirements.
- Adhere to the NF's policies and procedures related to infection prevention and control.
- Not participate in visits if the designated essential caregiver has signs and symptoms of COVID-19 or an active COVID-19 infection.

A NF may deny an essential caregiver the right to visit if they fail to comply with all visitation requirements.

## **5.0 End-of-life Visits**

End-of-life visits are defined as a personal visit between a visitor and a resident who is receiving hospice services; who is at or near end of life, with or without receiving hospice services; or whose prognosis does not indicate recovery. A NF should not wait until death is imminent to allow an end-of-life visit.

A NF must allow end-of-life visits for all residents with any COVID-19 status, including:

- COVID-19 negative;
- unknown COVID-19 status; or
- COVID-19 positive.

End-of-life visitors do not have to maintain physical distancing between themselves and the resident they are visiting, but they must maintain physical distancing between themselves and all other persons in the facility.

The following requirements apply to end-of-life visits:

- Per CMS and CDC, a resident who is not fully-vaccinated must wear a facemask or cloth face covering over both the mouth and nose (if tolerated) throughout the visit.
- Per CMS and CDC, a resident who is fully-vaccinated and visiting with a personal visitor who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- Per CMS and CDC, a visitor who is fully-vaccinated and visiting with a resident who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- A resident may remove their facemask or face covering to eat or drink during a visit.
- A fully-vaccinated visitor may remove their facemask or cloth face covering to eat or drink during a visit if the visit is taking place in a private visitation area and both the resident and visitor are fully-vaccinated.

- Per CMS and CDC, a visitor must wear a facemask or face covering while in any area of the facility or on the facility campus, except in the private visitation area.
- Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.
- A NF must provide hand washing stations, or hand sanitizer, to the visitor and resident before and after visits.

NFs, residents, and visitors are encouraged to make use of essential caregiver visits, indoor visits, and outdoor visits for all other types of compassionate care situations when the resident's situation might not meet the definition of end-of-life.

## 6.0 Indoor Visits

A NF that has separate cohort areas for residents with COVID-19 positive, COVID-19 negative, or unknown COVID-19 status must permit indoor visitation.

A NF that meets the above requirements and is located in a county with a COVID-19 positivity rate of 10 percent or less must allow indoor visitation for all residents with COVID-19 negative status.

A NF that meets the above requirements, is located in a county with a COVID-19 positivity rate of more than 10 percent, and at least 70 percent of residents are fully-vaccinated must allow indoor visitation for residents with COVID-19 negative status.

A NF that meets the above requirements, is located in a county with a COVID-19 positivity rate of more than 10 percent, and less than 70 percent of residents are fully-vaccinated must permit indoor visitation for fully-vaccinated residents with COVID-19 negative status. In this case, residents that are not fully-vaccinated must limit their participation in visitation to outdoor visits (for COVID-19 negative residents), essential caregiver visits, and end-of-life visits.

To determine the percentage of residents that are fully-vaccinated, a NF must count the total number of residents that are fully-vaccinated and divide by the current census minus the number of short-stay residents. Multiply the

product by 100. For example, if a NF has 108 residents that are fully-vaccinated, 140 residents in the current census, and 10 short-stay residents, the percentage of fully-vaccinated residents would be 83.0%, as shown below:

$$108 \text{ fully-vaccinated residents} \div (140 \text{ current census} - 10 \text{ short-stay residents}) = 0.83$$

$$0.83 \times 100 = 83.0\%$$

A NF that had at least one confirmed COVID-19 case in the last 14 consecutive days in staff working in the area, unit, wing, hall, or building that accommodates residents who are COVID-19 negative, or at least one confirmed facility-acquired case in residents in the COVID-19 negative area, unit, wing, hall, or building can continue to permit indoor visitation if all of the following conditions are met:

- outbreak testing is being conducted in accordance with 42 CFR §483.80(h);
- the first round of outbreak testing revealed no additional COVID-19 cases in other areas, units, wings, halls, or buildings that accommodate residents who are COVID-19 negative; and
- indoor visitation is suspended for the affected area, unit, wing, hall, or building that accommodates residents who are COVID-19 negative until the facility meets the criteria to discontinue outbreak testing.

A plexiglass barrier or booth is not required for indoor visitation. A NF is not required to submit an attestation form or receive approval from HHSC prior to permitting indoor visitation. NF staff are not required to monitor visits.

The COVID-19 county positivity rate can be found at:

<https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg>.

A NF may use the county positivity rate provided by the county if the county positivity rate is updated at least weekly.

The following requirements apply to indoor visits:

- A NF must ensure equal access by all residents to visitors.
- Visitation must be facilitated to allow time for cleaning and sanitization of the visitation area between visits.

- If both the visitor and resident are fully-vaccinated, physical distancing is not required. But a NF must ensure physical distancing of at least six feet is maintained between visitors and all other residents and staff at all times.
- A NF must limit the number of visitors and residents in a visitation area as needed to ensure physical distancing is maintained between different visitation groups.
- Visits are permitted where adequate space is available and can take place in the resident's room or other area of the facility separated from other residents. The NF must limit the movement of the visitor through the facility to ensure interaction with other residents is minimized.
- Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.
- A NF must provide hand washing stations, or hand sanitizer, to the visitor and resident before and after visits.

During an indoor visit:

- Per CMS and CDC, a resident who is not fully-vaccinated must wear a facemask or cloth face covering over both the mouth and nose (if tolerated) throughout the visit.
- Per CMS and CDC, a resident who is fully-vaccinated and visiting with a personal visitor who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- Per CMS, a visitor who is fully-vaccinated and visiting with a resident who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- A resident may remove their facemask or face covering to eat or drink during a visit.
- A fully-vaccinated visitor may remove their facemask or cloth face covering to eat or drink during a visit if the visit is taking place in a private visitation area and both the resident and visitor are fully-vaccinated.
- Per CMS and CDC, a visitor must wear a facemask or face covering while in any area of the facility or on the facility campus, except in the private visitation area.

- The visitors and the resident must practice proper hand hygiene before and after the visit.

A fully-vaccinated resident may choose to have physical contact with their visitor during an indoor visit. Otherwise, physical contact between a resident and a visitor participating in an indoor visit is prohibited.

## **7.0 Outdoor Visits**

All NFs must permit outdoor visitation for all residents who are COVID-19 negative.

A NF is not required to submit an attestation form or receive approval from HHSC prior to permitting outdoor visitation. Staff are not required to monitor visits or escort visitors to and from the visitation area.

The following requirements apply to outdoor visits:

- A NF must ensure equal access by all residents to visitors.
- Visitation must be facilitated to allow time for cleaning and sanitization of the visitation area between visits.
- If both the visitor and resident are fully-vaccinated, physical distancing is not required. But a NF must ensure physical distancing of at least six feet is maintained between visitors and all other residents and staff at all times.
- A NF must limit the number of visitors and residents in a visitation area as needed to ensure physical distancing is maintained between different visitation groups.
- Visits are permitted only where adequate space is available. The NF must limit the movement of the visitor through the facility to ensure interaction with other residents is minimized.
- Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.
- A NF must provide hand washing stations, or hand sanitizer, to the visitor and resident before and after visits.

During an outdoor visit:

- Per CMS and CDC, a resident who is not fully-vaccinated must wear a facemask or cloth face covering over both the mouth and nose (if tolerated) throughout the visit.

- Per CMS and CDC, a resident who is fully-vaccinated and visiting with a personal visitor who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- Per CMS and CDC, a visitor who is fully-vaccinated and visiting with a resident who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- A resident may remove their facemask or face covering to eat or drink during a visit.
- A fully-vaccinated visitor may remove their facemask or cloth face covering to eat or drink during a visit if the visit is taking place in a private visitation area and both the resident and visitor are fully-vaccinated.
- Per CMS, a visitor must wear a facemask or face covering while in any area of the facility or on the facility campus, except in the private visitation area.
- The visitors and the resident must practice proper hand hygiene before and after the visit.

A fully-vaccinated resident may choose to have physical contact with their visitor during an outdoor visit. Otherwise, physical contact between a resident and a visitor participating in an outdoor visit is prohibited.

## **8.0 Salon Services Visits**

A NF can allow a salon services visitor to enter the facility to provide services to a resident with COVID-19 negative status.

A negative COVID-19 test result is no longer required for salon services visitors unless the salon services visitor is an employee of the NF or contract service provider.

The following requirements apply to salon services visits:

- The salon services visitor agrees to comply with the most current version of the Minimum Standard Health Protocols – Checklist for Cosmetology Salons/Hair Salons, located on website: <https://open.texas.gov/>.

- The visit may occur outdoors, in the resident's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other residents.
- Salon services visitors do not have to maintain physical distancing between themselves and each resident they are visiting but must maintain physical distancing between themselves and all other persons in the facility.
- Visitation must be facilitated to allow time for cleaning and sanitization of the visitation area between visits.
- Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.
- Per CMS and CDC, a resident who is not fully-vaccinated must wear a facemask or cloth face covering over both the mouth and nose (if tolerated) throughout the visit.
- Per CMS and CDC, a resident who is fully-vaccinated and visiting with a salon services visitor who is also fully-vaccinated may choose not to wear a facemask or cloth face covering during a visit if the visit is taking place in a private visitation area.
- A salon services visitor and the resident must practice proper hand hygiene before and after the visit.
- A salon services visitor must follow the facility's policy related to facemasks and any other PPE while in the facility.
- A salon services visitor must not participate in visits if the salon services visitor has signs and symptoms of COVID-19 or an active COVID-19 infection.

The NF must:

- develop and enforce salon services visitation policies and procedures, including:
  - a written agreement that the salon services visitor understands and agrees to follow the applicable policies, procedures, and requirements;
  - training each salon services visitor on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;
  - expectations regarding using only designated entrances and exits as directed; and
  - limiting visitation to the area designated by the facility.

- inform the salon services visitor of applicable policies, procedures, and requirements;
- maintain documentation of the salon services visitor's agreement to follow the applicable policies, procedures, and requirements; and
- document the identity of each salon services visitor in the facility's records and verify the identity of the salon services visitor by creating a salon services visitor badge.

Salon services visitors can be denied the right to visit if they fail to comply with all visitation requirements.

## **9.0 Attachments**

NF Visitation Rules CMS and HHSC Side-by-side Comparison

[Updated Expansion of Reopening Visitation Rules](#)

CMS [QSO 20-39](#), Nursing Home Visitation

## **10.0 Contact Information**

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) or call (512) 438-3161.

Attachment 1 - NF Visitation Rules CMS and HHSC Side-by-side Comparison

Visitation Rule	CMS Nursing Facility Visitation Guidance Memo – Revised 4/27/21	Previous Nursing Facility Visitation Rule	Current Nursing Facility Visitation Rule
Compassionate care visits (Indoor or Outdoor)	<p>Must allow for all residents and all COVID status.</p> <p>Testing cannot be condition of visitation.</p>	<p>Must allow essential caregiver (ECG) for all residents and all COVID status.</p> <p>Must allow for all residents at end-of-life.</p> <p>Testing not required for visitors.</p>	<p>Must allow ECG for all residents and all COVID status.</p> <p>Must allow for all residents at end-of-life.</p> <p>Testing not required for visitors.</p>
Indoor General Visitation	<p>Must allow for residents except:</p> <ul style="list-style-type: none"> <li>• Unvaccinated residents if in a red county (positivity rate over 10%) and &lt;70% of residents in the facility are vaccinated.</li> <li>• Residents that are COVID+ or in quarantine.</li> <li>• Temporarily during new outbreaks, with limited exceptions.</li> </ul>	<p>Must allow for residents except:</p> <ul style="list-style-type: none"> <li>• Unvaccinated residents if in a red county (positivity rate over 10%) and &lt;70% of residents in the facility are vaccinated.</li> <li>• Residents that are COVID+ or in quarantine.</li> <li>• Temporarily during new outbreaks, with limited exceptions.</li> </ul>	<p>Must allow for residents except:</p> <ul style="list-style-type: none"> <li>• Unvaccinated residents if in a red county (positivity rate over 10%) and &lt;70% of residents in the facility are vaccinated.</li> <li>• Residents that are COVID+ or in quarantine.</li> <li>• Temporarily during new outbreaks, with limited exceptions.</li> </ul>
Outdoor General Visitation	<p>Must allow for all residents with COVID negative status.</p>	<p>Must allow for all residents with COVID negative status.</p>	<p>Must allow for all residents with COVID negative status.</p>
Close/Personal contact	<p>Allows close/personal contact:</p> <ul style="list-style-type: none"> <li>• Between fully vaccinated residents and any visitor.</li> </ul>	<p>Allows close/personal contact:</p> <ul style="list-style-type: none"> <li>• Between fully vaccinated residents and any visitor.</li> </ul>	<p>Allows close/personal contact:</p> <ul style="list-style-type: none"> <li>• Between fully vaccinated residents and any visitor.</li> </ul>

	<ul style="list-style-type: none"> <li>• Between fully vaccinated residents and a compassionate care visitor.</li> <li>• Between an unvaccinated resident and a compassionate care visitor.</li> </ul>	<ul style="list-style-type: none"> <li>• Between fully vaccinated residents and a compassionate care visitor.</li> <li>• Between an unvaccinated resident and a compassionate care visitor.</li> </ul>	<ul style="list-style-type: none"> <li>• Between fully vaccinated residents and a compassionate care visitor.</li> <li>• Between an unvaccinated resident and a compassionate care visitor.</li> </ul>
Masks/Face covering	Required for all visitation.	Required for resident and visitor.	Per CMS and CDC, as applicable.
Hand hygiene before and after the visit	Required for resident and visitor.	Required for resident and visitor.	Required for resident and visitor.
Monitoring and escorting visitors	Not required.	Not required.	Not required.
Visitor screening	Required and must deny entry if signs or symptoms of COVID or if visitor exposed to COVID-19 in last 14 days, even if vaccinated.	Required and must deny entry if signs or symptoms of COVID or if visitor exposed to COVID-19 in last 14 days, even if vaccinated.	Required and must deny entry if signs or symptoms of COVID or if visitor exposed to COVID-19 in last 14 days, even if vaccinated.
Vaccination	May not be used as a condition of visitation.	May not be used as a condition of visitation.	May not be used as a condition of visitation.
Visitation designation	Does not require HHSC to approve general visitation.	Does not require HHSC to approve general visitation.	Does not require HHSC to approve general visitation.