

March 31, 2020

Secretary Marylou Sudders

Delivered by email to marylou.sudders@state.ma.us

Executive Office of Health and Human Services

One Ashburton Place, 11th Floor

Boston, MA 02108

Dear Secretary Sudders:

We are writing as advocates for Massachusetts nursing home residents to express our strong opposition to moving residents from their homes for the specific purpose "...to ensure [that] capacity at acute care hospitals [will be able] to address the anticipated surge in demand over the coming weeks...", as required in your March 27, 2020 letter¹ to Colleagues. We more than understand the need for additional acute care beds in the face of the COVID-19 pandemic, and we appreciate the dilemma in locating appropriate beds. But we believe the current plan puts nursing home residents in great and unnecessary jeopardy, and we respectfully ask that this plan be terminated and that all residents who have been moved are returned to their facilities.

We understand that at least a dozen of MA nursing homes are planned for conversion, and we would like to discuss our views as soon as possible in order to save more nursing home residents from the pain and suffering caused by the 3/27/20 planned moves. Please let us know when you are available to discuss these issues.

Our recommendations for alternative solutions for expansion of acute care beds and reasons for our perspective follow.

To address the dire need for additional beds for COVID-19 patients, we strongly recommend:

1. utilizing other options (e.g. vacant nursing homes, college dormitories, other vacant structures).
2. enlisting Massachusetts' vast emergency preparedness network, National Guard, Army Corp of Engineers to convert/build temporary hospital beds.
3. conferring with states that are moving forward with such efforts (e.g. New York, Washington).

We are concerned with many aspects of the current plan for the following reasons:

- Nursing home residents are one of the most vulnerable populations at risk for the virus and should be sheltering in place.
- When nursing home residents are forcibly moved to a different, unfamiliar room, unit, or facility, they suffer medical and psychological problems from "relocation stress" or "transfer trauma". Personal connections are lost, and the move feels more like an eviction.
 - ✓ Such unnecessary and harmful outcomes are real --- they happen when a resident loses his/her home when the Leaves of Absence, or Bed Hold, Policy for MassHealth nursing home residents is unable to protect the resident.
- The staff's collective understanding and knowledge of a resident is lost when a resident is relocated, further jeopardizing the health and well-being of the resident. This is important for all residents, but particularly important for residents with dementia who need consistent caregivers and consistent care to maintain the best quality of life. And for residents who have no family, visitors or advocates to speak up on the resident's behalf.
- The new 3/27/20 policy will not only replicate these hurtful outcomes, they also will "evict" hundreds of residents at a time when they have already been separated from their loved ones for weeks in an effort to prevent the potential spread of COVID-19.

¹ <https://www.mass.gov/doc/covid-19-dedicated-nursing-facility-letter/download>

- These “evicted” residents could also face a second stressful move if they are subsequently sent to the hospital for a medical emergency, including acquiring COVID-19.
- Residents are being asked to “temporarily move to other facilities” to accommodate this transition to establish dedicated COVID-19 facilities. This infers that if the resident survives until the coronavirus pandemic is over, the resident will be moved back to his/her original nursing home, creating a new upheaval and potential harm to the resident.
- Other concerns involve requiring already overworked, overstressed nursing home staff helping residents through a difficult move, while they themselves must acclimate to a new environment.

It was unclear in the 3/27/20 plan whether or not some of the nursing home staff will remain in the converted facility to help with the coronavirus patients.

- We submit that existing nursing home staff will either be needed at the new nursing home to care for the newly admitted residents or needed elsewhere within the nursing home system which is also under strain from the pandemic.
- We recommend that only appropriately trained medical personnel be used at the newly dedicated coronavirus facilities.
 - ✓ If there is a shortage, we recommend filling new positions by asking retired medical professionals to volunteer to come out of retirement, similar to the NY program.

The plan of moving residents to accommodate care needs of coronavirus patients also comes at a time when residents are being negatively impacted by the loss of visitations by families and Ombudsmen and when reduced oversight by the Department of Public Health (DPH) has been mandated. This situation creates a potential decline in certain standards of nursing home resident care.

- In addition to loving support, families often provide vital monitoring and care for their loved ones, from assisting with meals to identifying health issues, such as dehydration, urinary tract infections, etc.
- Ombudsmen receive/identify, investigate, and resolve complaints and concerns of residents and their loved ones. As of 3/13/20, Ombudsmen were also subject to the same visitation restrictions as families, although nursing homes must facilitate resident communication (by phone or other format) with Ombudsmen.²
- Moving residents to accommodate coronavirus patients comes at a time when nursing home health inspections have been reduced by CMS to target infection control inspections of facilities. This new federal requirement specifies that the directive will be in place for three weeks, starting on March 20. Under this guidance, the majority of potential and existing violations of nearly *all* the nursing home standards of care will be on hold for the next three weeks.³
- We understand the need to implement limitations on visitations. However, without the additional “watchful eye” of loved ones and Ombudsmen, and given the mandated reduction in the DPH investigations, residents may be in jeopardy from issues that were addressed by visitors, but now will go unnoticed.

² See [QSO-20-14-NH REVISED \(PDF\)](#) 9.c. page 4

³ *New Guidance On Nursing Home Health Inspections Severely Limits Oversight and Enforcement for a Three-Week Period*, Center for Medicare Advocacy, 3/26/20, <https://www.medicareadvocacy.org/new-guidance-on-nursing-home-health-inspections-severely-limits-oversight-and-enforcement-for-a-three-week-period/?emci=0c5db158-9e6f-ea11-a94c-00155d03b1e8&emdi=4b998907-ab6f-ea11-a94c-00155d03b1e8&ceid=4142517>

We also have concerns with the new plan, given the lack of communication with residents and their loved ones/representatives. According to a 3/28/20 Boston Globe article⁴, family members of several recently moved residents “...said Saturday that the move happened very fast and with virtually no communication from the nursing home...” Another consideration is that Guardians need enough time to make difficult decisions for incapacitated residents. For instance:

- Guardians may face difficult issues of end of life care for which they need court approval.
- Residents with no family may need to have a court appointed Guardian to make decisions.
- The Probate courts are triaging cases now and some are actually temporarily closed.

Residents, families, representatives and Guardians must always be informed of such life-changing events --- new facility name, move date, overall moving schedule and plan, names and contact information of key and appropriate staff throughout the transition, etc.

Thank you for your time and consideration.

Sincerely,

Massachusetts Advocates for Nursing Home Reform

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⁴ *Officials are emptying nursing homes across Mass. to create coronavirus recovery centers*, Boston Globe, Robert Weisman and Tim Logan, 3/28/20, <https://www.bostonglobe.com/2020/03/28/metro/officials-emptying-nursing-homes-across-state-create-covid-19-recovery-centers/>.