



## Federal and State Waivers and Guidance for Long Term Care Facilities

### Reference Guide for Government Officials and Public Health Officers

In response to the COVID-19 public health emergency federal and state governments have issued waivers to regulations and guidance for long term care operations to cohort residents according to their COVID-19 status. The aim of cohorting, or organizing, patients into specific care areas can help with more efficiencies in caregiving and referral to acute medical care when the need arises.

#### Centers for Medicare and Medicaid Services

- **COVID-19 Long-Term Care Facility Guidance (April 2, 2020)**  
<https://www.cms.gov/files/document/4220-covid-19-long-term-care-facility-guidance.pdf>
  - Discusses infection control practices, state and local prioritization of LTC for PPE distribution, resident and employee screening, appropriate PPE use, and patient cohorting into separate wings, units, floors or entire buildings
- **COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers**  
<https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>
  - This is a continuously updated document and discusses regulatory waivers for many different health care provider types. It specifically addresses a number of waivers for skilled nursing facilities and nursing facilities that address waivers for physical environment, resident groups, and transfer/discharge regulations all specifically aimed at isolation procedures and cohorting.

#### Indiana State Department of Health

- **State Health Commissioner Issues Order Authorizing Transfers of Long-Term Care Residents (April 14, 2020)**  
<https://coronavirus.in.gov/files/Dr.%20Box%20-%20Order%20-%20Relocation%20of%20LTCF%20Residents%20during%20the%20COVID-19%20Outbr....pdf>
  - Under the State Health Commissioner Order issued on April 14, 2020, long-term care facilities are authorized to transfer, discharge, transport, or otherwise relocate patients or residents in accordance with the plans and guidance of ISDH, including transfers within a facility, transfers between facilities (including to and from hospitals), and transfers across city or county boundaries.
- **COVID-19 LTC Facility Infection Control Guidance SOP (March 27, 2020)**  
[https://coronavirus.in.gov/files/IN\\_COVID-19%20LTC%20checklist%203-27-2020.pdf](https://coronavirus.in.gov/files/IN_COVID-19%20LTC%20checklist%203-27-2020.pdf)
  - Lists a number of recommendations regarding preparations, infection control activities, and patient care. Discusses that long-term care facilities should have a plan to rapidly

implement, or know how to implement, cohorting of patients into wings, floors, or if available, by building.

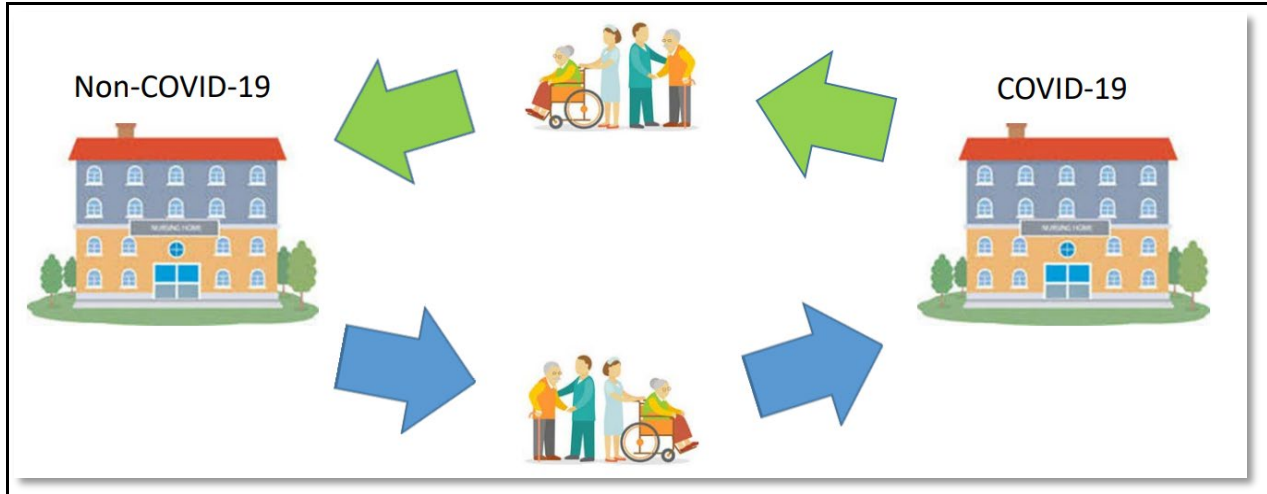
- **Second Emergency Order Granting Temporary Blanket Waivers for Comprehensive Care Facilities (nursing facilities)** <https://image.s1.sfmcc-content.com/lib/ff011270716507/m/1/b0d1f028-ca38-4037-8682-f81e7333f482.pdf>
  - Provides state-level regulatory waivers to permit rapid transfer of residents and to change notice of transfer of discharge to be as soon as practicable before the transfer or discharge.
- **Fifth Emergency Order Granting Temporary Blanket Waivers for Comprehensive Care Facilities (nursing facilities)** <https://image.s1.sfmcc-content.com/lib/ff011270716507/m/1/c61f19a0-4a13-4052-8e40-8d0f006b8f19.pdf>
  - Provides state-level regulatory waivers to other regulations addressing transfer and discharge procedures that are specifically tied to the facility's implementation of an emergency response and containment measures imposed by or directed through guidance from CMS, ISDH, or Governor Eric Holcomb.

### **Transferring or Discharging Residents Between Facilities - CMS Guidance**

Per the CMS, if two or more certified LTC facilities want to transfer or discharge residents between themselves for the purpose of cohorting, they do not need any additional approval to do so. However, if a certified LTC facility would like to transfer or discharge residents to a non-certified location for the purposes of cohorting, they need approval from the State Agency.

#### **SCENARIO ONE:**

**Two or more certified long term care (LTC) facilities (SNFs and/or NFs) transfer patients between facilities to create a COVID-19 and non-COVID-19 facility. Allowed under Blanket Transfer Waiver without additional approval. Each certified facility bills Medicare for the residents in their facility.**



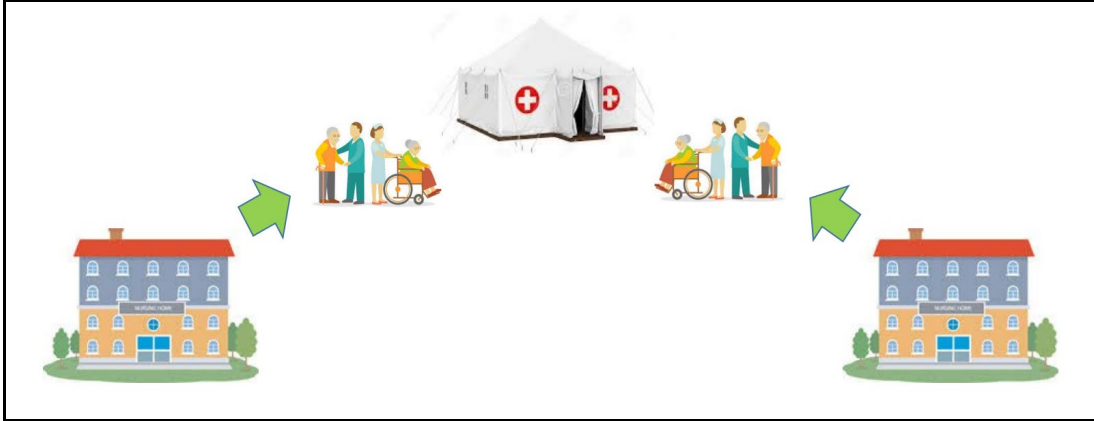
**SCENARIO TWO:**

**Transfer residents from one or more certified LTC facilities to a non-certified location that is state approved and where residents must be cared for by LTC facility staff. Medicare reimbursement remains with the LTC facility caring for patients in the new location. This location could be utilized by multiple LTC facilities, providing care with their own staff.**



**SCENARIO THREE:**

**Transfer of COVID-19 residents to Federal/State run facility staffed with Federal or State personnel: Transfers by Order of Governmental Authority (e.g., FEMA) and no reimbursement to the LTC facility.**



**No waiver necessary as long as transfer is not inconsistent with a state's emergency preparedness or pandemic plan, or as directed by the local or state health department**