June 29, 2020

COVID-19 Study and Recommendations Task Force established pursuant to Massachusetts Bill H.4672
Massachusetts State House
Boston, MA 02133

Dear Task Force Members:

Thank you for your willingness to address healthcare system inequities during these challenging times. Your efforts to study and recommend improvements for the state's underserved and underrepresented populations - including those subject to age discrimination - during the COVID-19 pandemic are very much needed.

In recognition of your responsibility to consider recommendations to improve safety for populations at increased risk for COVID-19 in Massachusetts, including the impact of disparities on populations not specifically identified in the legislation for study, we urge you to consider the unique vulnerability of nursing home residents to the coronavirus.

Massachusetts has the unfortunate distinction of having a significantly higher rate of COVID-19-related deaths in long-term care facilities than the national average. Some 63 percent of the state's deaths, or more than 5,000 people as of this writing, are long-term care facility residents or staff members, while the national average is under 40 percent. In mid-March, the Baker administration acted to close homes to visitors, but it was too late as the virus had already infiltrated most homes through staff or visitors, many of whom were likely asymptomatic. In addition, the presence of community transmission in many locations accelerated the spread of COVID inside nursing homes in such areas.

The lack of testing and the serious lack of appropriate PPE due to supply chain factors, as well as shortages of staff with appropriate infection control training, created infectious conditions that spiraled out of control. While residents and staff at most homes have now been tested once, there is no publicly available plan for how to ensure sufficient testing and adequate PPE going forward.

Long-term care facilities are now eligible for a share of $130 million in available state funds if they meet certain infection control requirements. The results of whether a home has met these infection control requirements is available to the public, and the most recent data indicate a 90 percent compliance rate. However, there is no information as to what will happen with state audits and the 28-point checklist after the program ends in June 2020.

Since April, Massachusetts nursing homes have been offered additional funding to admit COVID-19 patients from hospitals. Research from the Massachusetts Advocates for Nursing Home Reform suggests that half of the facilities accepting this offer had one- or two-star ratings from the Centers for Medicare and Medicare Services (CMS), an indication of severe

operational deficiencies.[1] Initially, the state may have relied on self-certifications from the homes that they had proper isolation units for infected residents; later, we believe, inspections related to the 28-point infection control program included the isolation units. It is not clear how facilities with low CMS grades became COVID checklist-compliant so quickly. This incentive structure needs reform to prioritize quality of resident care over monetary gains, with ongoing transparent oversight from state officials prior to placement of COVID patients. The results of such audits of these isolation units need to be easily accessible to the public.

The Massachusetts DPH website contains limited information on transfer of the elderly between hospitals and nursing homes, but it is not readily accessible via the agency's nursing home consumer information page. Greater transparency is needed on the state level to help the public make informed decisions on where to place loved ones, especially in anticipation of a second wave of COVID-19. The state's recent efforts to increase the precision of case and death counts at Massachusetts nursing homes is a good start, but we would like to see more in-depth statistics going forward that take into account risk factors such as the facility's layout and other diseases among residents. This may include data on whether their long-term care facility has multiple wards with shared staff or a designated dementia unit. Additionally, data should include special considerations for protecting those with dementia.

Concerns about nursing home oversight predate this pandemic. The state has long required these facilities to take an "all-hazards approach" to their emergency preparedness plans, which includes addressing pandemic flus and other infectious diseases. A set of 2017 CMS regulations even stipulates the inclusion of "isolation and personal protective equipment (PPE) measures" in these plans. We have no clear evidence that annual state and federal surveys have applied these standards in a thorough and consistent manner. We would like clarification as to whether these past surveys were primarily accomplished through self-attestation by the homes or whether they involved thorough on-site reviews and inspections. The state's most recent infection control audits, which were ordered only after immense public scrutiny of the deadly impact of COVID-19 in nursing homes, have revealed that over one-third of these facilities have failed to comply with measures meant to proactively stem the spread of COVID-19 as of May 21.

Meanwhile, the EOHHS's infection control ratings are very similar between nursing homes with the state's highest COVID-19 death rates and those with the lowest.[2] There are also ongoing problems securing PPE and qualified infection control staff members in nursing homes across the state, even at a time when these actions should be of the highest priority.

In light of both the short-term and long-term implications of nursing care reform in Massachusetts, we propose the following actions for this task force's further study:

- Appoint an individual whose sole responsibility would be to oversee and coordinate the responses of state agencies and nursing homes and who reports directly to the

[1] Massachusetts Advocates for Nursing Home Reform, "Hearing: Impact of the Covid Crisis on Aged Adults in Massachusetts," Joint Committee on Elder Affairs, May 15, 2020. Public Testimony.
[2] *See Appendix A*

Governor, both for the remainder of the COVID-19 pandemic and during any other public health emergency. Public health experts, epidemiologists, and virologists should be prioritized for this position.

- Prioritize nursing home residents and staff members for COVID-19 vaccination once a vaccine is available.
- Emphasize government transparency at all stages of the reform process, including more explicit evaluative measures for nursing homes on infection control, provision of emergency preparedness plans for each facility, disclosure of COVID-19 case and death totals in absolute numbers by facility, and disclosure of whether a nursing home is accepting COVID-19 patients from hospitals. The resulting materials should be consumer-friendly and easy for the public to locate and understand.
- Evaluate the state's emergency preparedness and infection control standards for nursing homes, with a special focus on raising standards for quality of care.
- Require that nursing homes maintain a stock of PPE (including gloves, surgical masks, N95 masks, hand sanitizer, booties, etc.) sufficient for a certain time period of continuous use, and perhaps a longer time period for the duration of this pandemic. To enforce such a requirement, state inspections should verify the presence and adequate quality of these supplies by visual inspection. Financing mechanisms should be established to allow all homes to obtain required equipment for the duration of the pandemic and beyond.
- Require nursing homes to designate an infection preventionist (IP) at the facility and publicize that individual and his/her credentials. The IP would be responsible for ensuring procedures and PPE are in place to prevent the spread of infection, including infectious diseases, consistent with CMS guidelines.
- Distinguish between the protocol for an emergency and the one implemented during preparation for an emergency in infection control plans. The emergency protocol should apply whenever there is a case of a deadly, highly contagious disease anywhere in the state.
- Require regular COVID-19 point-in-time and surveillance testing among all nursing home residents and staff, including antibody testing for homes with significant outbreaks as needed. For example, currently, the Massachusetts Senior Care Association is developing recommended protocols for future testing. The state Department of Public Health should be involved in advancing and, where needed, funding such protocols.
- Require nursing homes to demonstrate their ability to form isolation units with adequate numbers of beds for infectious onslaughts as a prerequisite for continued operation. To enforce such a requirement, state inspections should continue to verify the existence and safety of the infection units via visual inspection of the facility.
- Establish employment protocols for isolation units that prevent the units' staff from serving non-infected patients until after a substantial quarantine period.
- Establish a protocol for reporting test results at long-term care facilities directly to the Department of Public Health. In this regard, every facility should have a point of care testing machine, and the state should assist efforts to obtain such a testing apparatus as needed.

- Establish employment protocols for infectious disease control that prevent staff at facilities with an outbreak from working in other nursing care facilities at the same time.
- Determine a methodology for restricting nursing home visitors during an infectious outbreak, including enhancing contact tracing procedures as needed.
- Require that service workers, delivery people, and other outside personnel who must enter homes wear masks and gloves and be subject to regular temperature checks during an infectious outbreak. As part of this requirement, all outside workers should also fill out questionnaires regarding COVID-19 that disclose testing information and provide a basis for contact tracing up-front. A complete log with names, addresses, and phone numbers of outside workers or other visitors should be maintained during the infectious outbreak period to facilitate contact tracing.

COVID-19's devastation of our state's nursing homes is a severe blot on the public health history of Massachusetts. At present, the number of people who have died from COVID in Massachusetts long term care facilities accounts for 12 percent of the population of these facilities in 2017.

The conditions that led to this tragic outcome appear to have been in place for years. Such conditions, combined with failure to prioritize the needs of nursing home populations, resulted in the unacceptable lethality of the virus in the state's long-term care facilities.

The state was very quick to close schools and colleges and to focus on acute care settings, but the treatment of elders in nursing homes has been intolerable and demands reform. Moving forward, we hope the state will not repeat past mistakes regarding oversight and attention to facilities that care for the most vulnerable populations among us. Thank you in advance for heeding our concerns and recommendations.

Sincerely,

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Appendix A: Analysis of infection control audit scores among Massachusetts nursing homes with highest, lowest death rates from COVID-19

Facilities with the 15 highest death rates

Name of facility	COVID-19 death rate per 100 beds	Latest Infection Control score	Infection control evaluation date	Nursing Care quality score
Katzman Family Center for Living	45	D	3/14/2018	30
Pope Nursing Home	40.8	F	10/17/2019	32
Coleman House	37.8	No Deficiencies		32
Belmont Manor Nursing Home	35.3	No Deficiencies		30
Armenian Nursing and Rehab	33.7	No Deficiencies		28
Quincy Health and Rehabilitation Center	33.3	E	2/19/2020	30
Julian J Levitt Family Nursing Home	33	E	11/19/2019	30
Blaire House of Worcester	32	D	6/5/2017	32
Beaumont Rehab and Skilled Nursing - Northborough	31.3	No Deficiencies		22
Rivercrest Long Term Care	28.6	D	10/25/2017	30
Alliance Health at Devereaux	28.1	D	1/16/2019	28
Alliance Health at West Acres	27.7	D	10/26/2018	31
Royal at Wayland Nursing & Rehab	27.5	E	3/8/2019	27
Courtyard Nursing Care	26.8	No Deficiencies		24
Commons Residence at Orchard Cove	26.7	D	4/17/2018	29

Average	**29.0**

Facilities with the 15 lowest death rates

Name of facility	COVID-19 death rate per 100 beds	Latest Infection Control score	Infection control evaluation date	Nursing care quality score
Brush Hill Care Center	3.1	F	6/24/2019	31
D'Youville Senior Care	3.8	D	8/27/2018	29
Westford House	4.1	D	12/8/2017	19
Parsons Hill Rehab and Health	4.3	D	5/21/2019	19
Marion Manor of Taunton	4.3	D	12/22/2016	28
Worcester Health Center	4.4	D	9/4/2019	27
Linden Ponds	4.5	D	2/2/2017	28
Elaine Center at Hadley	4.5	No deficiencies		23
LifeCare Center of West Bridgewater	4.7	D	4/13/2017	30
Bear Mountain Healthcare at West Springfield	4.8	D	5/2/2018	29
Heritage Hall North	4.8	D	12/2/2016	28
Wingate at Silver Lake	4.9	D	6/6/2019	27
Reservoir Center	4.9	D	6/26/2019	25

Southbridge Rehab	4.9	No deficiencies	29
Aberjona Nursing Center	4.9	No deficiencies	29
Average			**26.7**

Sources: https://eohhs.ehs.state.ma.us/nursehome/Default.aspx, https://pioneerinstitute.org/covid/covid-tracker-for-long-term-care-facilities/