

Governor's Long Term Care Facility Testing Plan Phase 2: Routine Staff Testing

Information Session for Long-Term Care
Facilities

Friday, 10/30 9 am- 10 am

Friday, 11/6 1 pm -2 pm



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Meeting Logistics

- The moderator has muted phone lines
- 30 minute presentation
- 30 minutes for questions and answers
- Please provide questions in the chat box
- We are unable to accommodate audio questions
- The OHCA moderator will review questions in the chat box and direct questions to the panel
- There will be a repeat presentation of this information with additional FAQs scheduled for November 6, 1:00-2:00 pm



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Content Overview

- Overview of Outbreaks by Facility Type
- Background on Testing Rule
- Summary of Testing Changes
- Associated Staff Definition
- Frequency of Testing - OHA and CMS County Data Websites
- Reporting Staff Testing Results
- Resources
- Additional Rule Provisions
- Frequently Asked Questions
- Today's Presentation – Answers to Your Questions

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COVID-19 Executive Order Frequency

- ODHS issues Executive Orders when there are suspected or confirmed COVID-19 cases in long-term care facilities

Facility Type	Number of Executive Orders Issued	Number of Facilities	Percentage of Facilities with EO
Assisted Living Facilities and Residential Care Facilities	669	558	66%
Nursing Facilities	689	129	98%

**Executive Order data as of 10/27/20*

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Why Is Ongoing Staff Testing Important in LTCF Settings?

- Many outbreaks are the result of **staff bringing the virus into a facility**
- **Fewer than 13% of COVID-19 cases** in Oregon are associated with congregate living settings. However, deaths at LTCFs account for **57% of all COVID-19 related deaths in Oregon***.
- Routine testing of staff can **reduce the likelihood** and **severity** of outbreaks in LTCFs

**OHA COVID-19 Weekly Report, 10.28.20. "Congregate living settings" include, but are not limited to, long-term care facilities, group homes, prisons, and shelters. Data include people with confirmed cases who live or work in congregate living situations.*

Background on Testing Rule

- Oregon's Long-Term Care Facility (LTCF) testing plan was released on June 15, 2020 with two objectives:
 - Complete baseline testing of all residents and staff at LTCF by 9/30/2020
 - Require facilities to develop plans for completion of monthly routine staff testing
- Facilities successfully completed baseline testing
- CMS issued guidance in September requiring all nursing facilities in the US to test all staff at least once a month, and in some cases once or twice a week
- Federal HHS has issued point-of-care antigen testing devices to all Oregon nursing facilities

Summary of Changes

- Oregon has updated Phase Two of the Governor's Long Term Care Facility Testing Plan to align with federal requirements for routine testing for staff and associated staff. The new requirements start on November 1, 2020.
 - DHS is updating OARs [411-060-0000 through 411-060-0050](#) to define state rules for routine and outbreak testing in long-term care facilities
 - Details about Phase Two are available on the plan's [webpage](#); updates are summarized on this [fact sheet](#).
 - Full text of the [Plan for Testing Long-Term Care Staff](#);
 - [Frequently Asked Questions](#)
 - CMS guidance for nursing facilities: [CMS QSO-20-38-NF](#)

Chapter 411 Division 60: COVID-19 Testing in Licensed Assisted Living Facilities, Nursing Facilities, and Residential Care Facilities

Temporary Rule Sections

- 411-060-0000 Purpose
- **411-060-0005 Definitions**
- 411-060-0010 Admission and Readmission Testing
- 411-060-0025 Ensuring Trauma-Informed and Culturally Responsive Testing
- **411-060-0027 Routine Staff Testing Requirements**
- 411-060-0030 Outbreak Prevention Testing
- 411-060-0040 Consent for Testing
- 411-060-0050 Reporting

411-060-0005: Definitions

(2) "Associated Staff" means individuals providing direct care services to facility residents via a contractual relationship with the facility such as supplemental staffing agencies. Associated staff also includes volunteers, hospice personnel, caregivers who provide care and service to residents on behalf of the facility, individuals providing environmental (housekeeping, laundry) or food services via a contractual relationship with the facility, and students in the facility's nurse aide training program or from affiliated academic institutions.

(3) "Associated Staffing Provider" means a separate legal entity, including an entity that has contracted with a Facility to provide staffing for the Facility, which employs Associated Staff.

(8) "Facility Staff" means anyone directly employed by the Facility who is scheduled, or anticipated, to work at the Facility in the future.



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411-060-0027: Routine Staff Testing Requirements

Every Assisted Living Facility and Residential Care Facility shall:

(1) Ensure that all Facility Staff and Associated Staff are tested routinely for COVID-19 on an interval that considers the published county positivity rate, the availability of testing resources and at the frequency outlined in the Department guidance. Nursing Facilities will follow the standards set forth in the interim rules issued by the US Centers for Medicare and Medicaid Services (CMS) in 85 Federal Register 54820 (September 2, 2020). Nursing Facilities will also follow any guidance issued by CMS related to these rules.



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411-060-0027:Routine Staff Testing Requirements

(2) If a Facility is unable to comply with the required testing interval due to lack of access to molecular testing services that can reliably process tests within 48 hours or lack of access to antigen tests, the Facility may request an exception and alternate testing schedule from the Department.

3) Conduct testing in a manner that is consistent with current standards of practice for conducting COVID-19 tests as defined in OHA clinical guidance.

411-060-0027:Routine Staff Testing Requirements

(4) For each instance of Facility Staff and Associated Staff testing, document or obtain copies of documentation that testing was completed and the results of each test.

(5) Upon the identification of an individual specified in this paragraph with symptoms consistent with COVID-19, or who tests positive for COVID-19, take actions to prevent the transmission of COVID-19.

411-060-0027: Routine Staff Testing Requirements

(6) Have procedures for addressing Facility Staff and Associated Staff who refuse testing or are unable to be tested. Serial testing of all Facility Staff and Associated Staff is mandatory, except for those Facility Staff and Associated Staff who provide medical justification for declining testing from a licensed health care provider. If any Facility Staff or Associated Staff refuses testing that is required under this rule, the Facility or Associated Staffing Provider is required to address a refusal as a personnel matter with the individual employee. Personnel consequences for refusals to test shall be consistent with requirements under federal and state employment laws and collective bargaining agreements, if applicable.

ODHS Guidance: Associated Staff

ODHS and OHA recommends LTCF use the following interpretive guidance to define individuals or caregivers who provide care and service to residents on behalf of the facility:

The individual meets both of the following criteria:

- Individuals with whom the facility has a contractual relationship, and
- Individuals have close and prolonged contact with residents for more than 15 minutes within 6 feet, and

And one of the following criteria:

- Individuals who provide services to many residents in multiple buildings and facilities, or
- Individuals who enter a facility more than 1 time/week

ODHS Guidance: Frequency

- Routine testing of staff will be more frequent than once a month aligning with [CMS Guidelines](#)
- Routine testing should be based on the extent of the virus in the community. Facilities should use their county positivity rate in the prior week as the trigger for staff testing frequency.

Community COVID-19 Activity	County Positivity Rate in past week	Minimum Testing Frequency
Low	<5%	Once a month
Medium	5%-10%	Once a week
High	>10%	Twice a week

ODHS Guidance: Reporting

1. Facilities must choose to follow either the CMS or OHA positivity rates, use one of these resources, must remain consistent in gathering data, check positivity rates every two weeks, set a specific recurring day bi-weekly for review, and document on monthly survey to SOQ:

- [CMS COVID-19 Positivity Rates](#)
- [OHA COVID-19 Positivity Rates](#)

2. Facilities need to raise their testing frequency if the positivity rate goes up a tier but remain the same for 2 consecutive weeks at the higher rate if the positivity rate goes down a tier (per CMS guidance).

ODHS Guidance: Reporting

3. Facilities may develop a policy in which they accept an attestation of testing from associated providers as verification of completed testing.
4. Facilities must accept testing results from other facilities and not require duplicate surveillance testing.
5. Facilities are not required to submit a plan for staff testing to SOQ as the expectation is facilities will secure contracts on their own.

ODHS Guidance: Reporting

6. Suspected cases of COVID-19 along with positive test results of a resident or staff member must be reported to both SOQ and the local public health authority.
7. Facilities cannot mandate a higher standard for staff testing than the state policy unless 1) the facility will incur the costs, 2) it is agreed upon between the facility and the contracted staff, and 3) it does not limit resident access to needed services and supports.

Resources: Point-of-Care Antigen Test

- July 14, 2020: CMS announced distribution of point-of-care (POC) antigen COVID-19 testing devices to all nursing facilities
 - Quidel Sofia
 - BD Veritor
- September 2, 2020: HHS announced distribution of POC antigen COVID-19 card tests to additional long-term care facilities (LTCFs) with CLIA waiver
 - Abbott BinaxNOW
- These devices were issued with the intent to meet the testing needs of LTCFs, including mandated CMS screening of staff and serial testing in outbreaks
- [OHA Provisional Guidance on Use of Antigen Tests](#)

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Financing Resources

- Facilities should have direct contracts with private testing vendors for outbreaks and can choose to work with private testing vendors for routine testing.
- ODHS and OHA will post a list of laboratory resources and their contact information via the provider alert system.
- Facilities without point-of-care antigen tests may request technical assistance to obtain CLIA waivers and access to antigen devices through the CRRU Testing Branch by emailing ORES8.AOCTestingBranch@dhsosha.state.or.us
- [Memo to hospice and home health agencies](#)

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411-060-0010 Admission and Readmission Testing

- Language is updated to require facilities to align with OHA Clinical Guidance

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411-060-0025 Ensuring Trauma-Informed and Culturally Responsive Testing

411-060-0040 Consent for Testing

- Pared down some provisions for ease of administration for facilities while maintaining commitment to health equity and trauma-informed practices
- Training video for trauma-informed and culturally responsive testing is available on ODHS website
- Training video on informed consent is under development



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411-060-0030 Outbreak Prevention Testing

- Updated language to clarify 72-hour requirement is specific to specimen collection
- Effective November 1, 2020, a Facility must **coordinate or complete specimen collection** for COVID-19 testing of all Residents, Facility Staff and Associated Staff **within 72 hours of identification** of a new case of COVID-19 in either a Resident, Facility Staff or Associated Staff.



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411-060-0050 Reporting

- Reporting requirements streamlined to cross reference CLIA and REALD reporting requirements.
- All Facilities with Clinical Laboratory Improvement Amendments (CLIA) waivers must follow the reporting requirements contained in OARs 333-018-0000 thru 333-018-0145. This includes the requirements contained in OAR 333-018-0011 for reporting race, ethnicity, language and disability data.

FAQs: Testing

- Q: Has the department issued guidance on retesting staff that have previously tested positive?
- A: Yes. Staff that have previously tested positive do not have to be re-tested within 90 days of initial infection as long as they do not develop new symptoms of COVID-19. Once the 90-day period is past, they will need to resume routine testing.

FAQs: Arranging for Testing

- Q: We have required baseline testing for all our staff working in long term care but are now running into challenges with staff not being permitted to get re-tested if they are asymptomatic as it is often not covered by insurance because they do not have symptoms.
- A: Staff will need to be tested regardless of whether the test is covered by insurance. Facilities may develop a policy in which they accept an attestation of testing from associated providers as verification of completed testing. Facilities must accept testing from other facilities and not require duplicate surveillance testing.

FAQs: Test Follow-up

- Q: How is the test result information going to be used and how will workers' privacy be protected?
- A: Test results are highly protected personal health information available only to the individual, their health care provider and, in some cases, their employer. Confidential positive test results will also be shared with the local public health authority so public health workers can contact anyone who tests positive for COVID-19 to determine who else might have been exposed. Oregon Health Authority uses the confidential information from testing to gain an understanding of how COVID-19 is spreading within long term care facilities. To make sure others don't get sick, anyone who tests positive will be given information on how to prevent giving COVID-19 to someone else and need to understand that they may not go into a long term care facility until there is no risk they can spread COVID-19 to residents. A staff member who tests positive and does not have symptoms will be able to return to work after at least 10 days have passed since the COVID-19 positive test result.

Moderated Questions

- Please type your questions in the chat box
- Links:
 - [ODHS Webpage](#)
 - [Fact sheet.](#)
 - Full text of the [Plan for Testing Long-Term Care Staff](#);
 - [Temporary rules](#) adopted for routine staff testing.
 - CMS guidance for nursing facilities: [CMS QSO-20-38-NF](#)
- There will be a repeat presentation of this information with additional FAQs scheduled for November 6, 1:00-2:00 pm