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# LTC COVID-19 Update

Presented by:

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## Today's Topics

- Falls and Program Review – Be proactive – Kara Dawson
- Update to COVID 19 Blanket Waivers (handout) – Lori Davenport
- TB and COVID 19 Vaccinations
- Booster Update
- Survey Guidance
- Q&A

*Equipping Staff: Infection Control Focused Training & Competency Assessments, a webinar on Sept. 20, details [HERE](#)*

*Assisted Living Symposium, an in-person event on Nov. 18, details coming soon!*

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## Update to COVID-19 Emergency Declaration Blanket Waivers Nurse Aide Training Competency and Evaluation Requirements

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CMS indicated a state or facility cannot attain or retain a waiver longer than the declaration of a public health emergency (PHE), and it will grant these waivers for a timeframe that is as short as possible, only while the declaration of a COVID-19 PHE is still in effect. If the PHE ends during or before the granted period of waiver for a facility or a state or a county, the waiver also ends.



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## TB and COVID-19 Vaccination

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### COVID Vaccination and TB

- As of August 2021, CDC posted new recommendations about COVID-19 vaccination and timing of immune-based tests for tuberculosis infection – TST and IGRA, on its COVID-19 website:



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## Continued

“COVID-19 vaccination should not be delayed because of testing for TB infection. Testing for TB infection with one of the immune-based methods, either the tuberculin skin test TST or an interferon release assay IGRA, can be done before, after, or during the same encounter as COVID-19 vaccination.”



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## Continued

- “Given logistical challenges faced in delaying TB infections testing, the recommendation has been updated to that the TB tests may **NOW** be administered without regard to time of COVID-19 vaccination.”



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## Continued

- Patients who have active TB disease or an illness that is being evaluated as active TB disease can receive a COVID-19 vaccine.



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## Booster Update

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## FDA – Booster Update

- FDA has authorized new versions of Pfizer and Moderna's COVID-19 vaccines to be used as booster shots
- Original versions of Pfizer and Moderna's mRNA COVID-19 vaccines are no longer authorized to be booster doses.



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## Continued

- The new versions of boosters will be available soon.
- They target the original form of SARS-CoV-2 as well as Omicron strains currently causing most infections in the US today.



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## Continued

- Pfizer and Moderna original vaccines may be used as primary series
- New booster will be a single dose at least two months following primary or booster vaccination.



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## CMS Survey Guidance Changes

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## 483.70 – Administration

- F847 – Entering Binding Arbitration Agreements
- F848- Select Arbitrator/Venue, Retention of Agreements
- F851 Mandatory Submission of Staffing Information Based on PBJ in Uniform Format



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## F847 – Entering Binding Arbitration Agreements

- Outlines in new F-tag are the requirements for a provider facility for arbitration agreements.
  - If you ask your customers to enter into an agreement for binding arbitration – know the requirements!
  - FYI - AHCA has resources for members
    - Webinars and toolkits and a model arbitration agreement



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## Arbitration

- The facility cannot not require the resident to sign the agreement as a condition of admission or requirement to continue receiving care.
- The facility must explain the agreement – so all can understand.
- The agreement must clearly state that the resident has right to rescind the agreement within 30 days after signing it.



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## Arbitration

- The agreement must clearly state that the resident is not required to sign the agreement as a condition of admission or as a requirement to continue receiving care in the facility.
- The agreement cannot prohibit or discourage anyone to communicate with federal, state, or local officials.



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## Arbitration

- Residents have the right to make informed decisions and choices.
- Facilities should take every step to meet the resident needs.



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## F848 – Arbitrator/Venue Selection and Retention of Agreements

Key components of compliance:

- The agreement must provide for the selection a neutral arbitrator and selection of a venue that is convenient to both parties.
- The facility must retain a copy of the signed agreement for binding arbitration and the arbitrator's final decision for five years after the facility and the resident resolved a dispute through arbitration.



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## Continued

- CMS has clarified definitions and required disclosure.
- Reasonable-person concept may need to be used when demining severity.



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## Recommended Actions

- For facilities that continued to use arbitration agreements on or after September 16, 2019, examine existing policy and/or procedures to ensure compliance with record keeping requirements. For example, the IGs' language addressing affirmative disclosures of the facility's win-loss record in past arbitrations.



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## Recommended Actions

- Examine policies and/or procedures to ensure they include all five key components for when entering into binding arbitration agreements.
- Examine policies and/or procedures to ensure they include the two required key components for selecting an arbitrator/venue and retention of agreements.



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## Recommended Actions

- Review existing policies and/or procedures (and the language of template agreements) to ensure all key components are present and align with how CMS intends to enforce the regulation.



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## F851 – Mandatory Submission of staffing information based on PBJ uniform format

- Changes include that surveyors can obtain PBJ data from the CASPER report to determine if the facility submitted the required staffing information based on payroll data in a **uniform format**.
- Failure to submit PBJ data as required will be reflected on CASPER report and result in a deficiency citation.



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## F851 – Mandatory Submission of staffing information based on PBJ uniform format

- CMS has directed surveyors to use the critical element pathway “sufficient and competent staffing” for related staffing concerns.



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# Q&A

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## Contact Information

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**THANK YOU!**

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