

Testimony on HB 1502
House Human Services Committee
January 23, 2023

Good morning Chairman Weisz and members of the House Human Services. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 192 assisted living, basic care, and skilled nursing facilities in North Dakota. I am here to testify in opposition to HB 1502.

We rise in opposition because nursing facilities are required by federal regulation to do the very things HB 1502 tells health care providers they can't do.

If we violate or don't adhere to the federal requirements we can, at the very worst, be fined and closed and at the least receive notification of non-compliance. A deficiency of non-compliance requires corrective action, showing how you will comply. If you don't comply and continue to ignore the federal regulations, you will be shut down, as we would lose all Medicaid funding. If that occurs, I'm not sure what would happen to the residents who depend on us to care for them.

Regarding vaccination, on November 2, 2021, CMS issued an interim final rule with comment period, (86 FR 61555), titled "Medicare and Medicaid Program; Omnibus Covid-19 Health Care Staff Vaccination", (also referred to as the "staff vaccination requirement"). This interim final rule revised the requirements to establish Covid-19 vaccination requirements for staff at applicable Medicare and Medicaid certified providers and suppliers.

The staff vaccination requirement for all CMS certified providers and suppliers has been enforced in all states since February 20, 2022.

CMS expects all providers and suppliers staff to have received the appropriate number of doses of the primary vaccine series unless exempted as required by law, or delayed as recommended by CDC.

Facility staff vaccination rates under 100% constitute non-compliance under the rule. Non-compliance does not necessarily lead to termination, and facilities will generally be given opportunities to return to compliance. But you must have a plan of achieving compliance.

Regarding who the vaccination requirement applies to within a nursing facility:

- 1) Facility employees
- 2) Licensed practitioners
- 3) Students, trainees, and volunteers, and
- 4) Individuals who provide care, treatment or other services for the facility and/or it's residents, under contract or by other arrangements.

To comply with the vaccination requirement, we must aggressively educate our staff on the value of Covid-19 vaccinations.

Rather than propose legislation such as HB 1502, we invite those supporters and legislators to join in our Association led campaign to change some of the requirements regarding Covid-19. Attached please find a flyer on our first campaign started last summer. And our most recent campaign started in November of 2022. In our first campaign, over

1,000 North Dakotans wrote to CMS/CDC and in September we saw some improvements in the regulations.

This legislation, if passed, would cause us harm. We must comply with the federal regulations if we wish to operate as a skilled nursing facility. We urge you to vote no on this legislation.

I would be happy to answer any questions.

Shelly Peterson, President
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Long Term Care Needs you!

ADVOCATING FOR CHANGES TO COVID RESTRICTIONS



GOAL:

Continue to generate passionate emails to CDC/CMS on lifting Covid restrictions in long term care.



HOW:

Have residents, resident councils, medical providers, social workers, nurses, and administrators send an email to CMS and CDC asking for relief on Covid restrictions.



WHERE:

Email your letter to:

- CMS: DNH_TriageTeam@cms.hhs.gov
- CDC: RochelleWalensky@cdc.gov
- CC to Association: vanessa@ndltca.org



WHEN:

Immediately through September 30, 2022!

LETTER SUGGESTIONS:

See the sample form and address one or two of the issues suggested below. Your own passionate words are the most impactful and stands out!

1. Allow staff, residents and visitors to "unmask". Residents want to see their caregivers and can't communicate effectively while masks remain in place. Depression and loneliness are taking over our resident population. The single most important thing we can do for residents is have them see their caregivers face, provide a hug, and tell them they matter. Covid restrictions are crushing their spirit.
2. Stop the Screening process. The screening process is ineffective, a waste of staff resources, and is not detecting Covid.
3. Update the testing matrix. Most of the public is using home tests and not reporting. This is skewing positivity rates and putting communities in the RED zone with low case numbers. We know the value of testing and will use it to detect outbreaks and stop the spread.
4. Return our long term care facilities to something closer to their pre-pandemic state. According to the Bureau of Labor Statistics, we have lost 1500 long term care staff in North Dakota. We have become more reliant on contract staff, and no one is applying for hundreds of open positions. We need staff and our residents need caregivers. Stop the restrictions so individuals will consider a job in long term care.

CALL US FOR
MORE INFORMATION



701-222-0660



Vanessa@ndltca.org

WE NEED YOU!

ADVOCATING FOR CHANGES TO COVID RESTRICTIONS



Discontinue the CDC County Transmission Map – this map dictates whether the residents and staff must wear masks.

County transmission rates are determined on the amount of tests being performed and the positivity of those tests. At the beginning of the pandemic, asymptomatic and symptomatic tests were being completed. The shift has changed to only testing symptomatic. This has caused the county transmission rate to skew to high transmission rates.

- Which leads to mask wearing being required for residents & staff
 - Which diminishes the resident's quality of life – the challenge of communicating through a mask and not seeing staff's faces; smiles!
 - Which is a detriment for recruitment and retention of staff

Changing this standard could help nursing homes evolve just as much of the rest of the country has.

Reporting COVID data to NHSN requirement – the ongoing burden to facilities is tedious and not necessary for any benefit to the facility or the residents

The time spent by nursing staff on reporting this information takes away essential time to give to the residents that we are here for; to provide quality and meaningful care.

- The NHSN portal is not user friendly, frequently not functioning, does not save information and needs a complete overhaul
- Due to the slow speed of the portal, the weekly reporting takes 60 to 90 minutes just to enter the data; which does not include the time to gather the data
- The data changes minimally from week to week regarding vaccination status



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**CONTACT US FOR MORE
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