

COVID-19 in Assisted Living Facilities



Staff Report Prepared for

Senator Elizabeth Warren

Senator Edward J. Markey

**Rep. Carolyn Maloney, Chairwoman,
House Committee on Oversight and Reform**

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Executive Summary

The United States has had more cases of the coronavirus disease 2019 (COVID-19) and more deaths as a result of the disease than any other nation on Earth. As the nation faces a dangerous resurgence of cases—with disturbing new national records and alarming spikes in states across the country—it is clear that federal leadership in combating this crisis is woefully deficient. One area in which these failures are particularly evident is in assisted living facilities.

On April 29, 2020, Senators Elizabeth Warren and Edward Markey, and House Oversight and Reform Committee Chairwoman Carolyn Maloney, opened an investigation of COVID-19 in assisted living facilities, seeking information on the occurrence and prevention of COVID-19 from the 11 largest national assisted living facility operators.

Assisted living facilities share many of the same risk factors as nursing homes—including congregant living conditions and an aged and high-risk population—but there is far less federal regulation of these facilities and the federal government does not require that the assisted living providers report any information on COVID-19 in their facilities.

This investigation, the first comprehensive survey of COVID-19 in assisted living facilities, found that:

- **There are high rates of coronavirus infection in assisted living facilities.** As of May 31, 2020, nearly one in four assisted living facilities in the survey—24%—had at least one positive test for coronavirus among residents, and approximately 8% of facilities had wider outbreaks of at least ten cases. Residents of assisted living facilities have tested positive for coronavirus at over five times the overall national average rate: 2.9% of assisted living residents had tested positive for the disease as of May 31, 2020, compared to a national occurrence rate of 0.5%.
- **Hospitalization and fatality rates are dangerously high for assisted living residents with COVID-19.** Overall, approximately 43% of assisted living facility residents who tested positive for coronavirus were hospitalized. Among all assisted living facility residents who tested positive for coronavirus, 31%—one in three—died. This fatality rate for diagnosed cases, while highly sensitive to the testing rate, is nearly six times the national average, and is comparable to—or even higher than—the fatality rate for nursing home residents with COVID-19. If this rate is representative of assisted living facilities nationwide, the data suggests that more than 7,000 assisted living facility residents may have died from COVID-19 as of May 31, 2020—representing approximately one in 15 COVID-19 fatalities nationwide at that time.
- **Assisted living facilities are not reporting COVID-19 cases and fatalities directly to the federal government.** None of the large assisted living providers indicated that they reported any of these COVID-19 cases to the federal government, explaining: “Currently, there are no federal requirements for reporting COVID-19 cases within

assisted living facilities.”¹ As a result, federal government officials, public health experts, and the public have no comprehensive information on COVID-19 occurrence and fatality rates in assisted living facilities.

- **Inadequate sick leave policies for employees put assisted living facility workers and residents at risk.** Only two of the 11 companies reported offering two weeks of paid leave for workers with confirmed or suspected cases of COVID-19. The other nine companies had inadequate policies—failing to offer sick leave specifically, not offering enough leave, offering it only under the condition that employees have a positive coronavirus test, or not offering leave to part-time employees. These leave policies make it more likely that workers in assisted living facilities will come to work when ill, putting assisted living residents and coworkers at risk.
- **Lack of testing and inadequate testing protocols in assisted living facilities place workers and residents at risk of COVID-19 outbreaks.** None of the assisted living facility operators reported that they conduct routine daily or weekly testing of staff, residents, or visitors at all their facilities. Most operators cited the lack of federal guidelines requiring such testing and limited testing capacity as the reasons they do not conduct more routine testing.
- **Shortages of personal protective equipment (PPE) imposed significant hardships on assisted living providers.** Although assisted living facility operators reported following state and federal guidelines for PPE use and provided PPE to employees at no cost, they also reported facing tremendous financial and logistical difficulties in obtaining adequate PPE for their staff.

¹ Response from Assisted Living Provider to Sens. Warren and Markey and Chairwoman Maloney, May 2020.

I. Introduction and Methodology

On April 29, 2020, Senators Elizabeth Warren and Edward J. Markey, and House Oversight and Reform Committee Chairwoman Carolyn Maloney, wrote to the nation’s 11 largest assisted living facility operators—those that operate at least 5,000 units across the United States. The letters sought information on COVID-19 outbreaks at assisted living facilities and steps taken to prevent them.²

The Members of Congress opened this investigation because there is no comprehensive federal information available on the impact of COVID-19 in assisted living facilities.

For nursing homes, the Department of Health and Human Services (HHS) has recommended that state regulators address outbreaks by imposing new reporting requirements, conducting inspections to ensure that infection controls and other procedures are in place, and providing facilities with PPE for staff.³

Assisted living facilities serve a similar population as nursing homes, although their residents need less help with day-to-day activities and care, and often live semi-independently.⁴ As a result, concerns have been raised that “a parallel crisis has been playing out with far less scrutiny in another setting housing vulnerable seniors: assisted living.”⁵

Despite these similarities, no new federal requirements have been implemented to help assisted living facilities improve their response to the pandemic, as they have for nursing homes. For instance, although the Centers for Disease Control and Prevention (CDC) has issued guidance on preventing and mitigating outbreaks in assisted living facilities, this guidance is not binding, and facilities are not required to follow it. While assisted living facilities may voluntarily report coronavirus cases to the federal government through the CDC’s National Healthcare Safety Network, they are not required to—unlike nursing homes, which are now required to regularly report COVID-19 data to CDC.⁶

² Letters from Sens. Warren and Markey and Chairwoman Maloney to Assisted Living Providers, April 29, 2020, <https://www.warren.senate.gov/imo/media/doc/2020.04.29%20Letter%20to%20Assisted%20Living%20Companies%20re%20COVID19%20in%20assisted%20living%20facilities%20BINDER.pdf>. The information request was sent to Brookdale Senior Living, Inc., Sunrise Senior Living, Five Star Senior Living, Inc., Atria Senior Living, Inc., Life Care Services LLC, Senior Lifestyle, Capital Senior Living Corporation, Affinity Living Group, Enlivant, Eclipse Senior Living, and Gardant Management Solutions.

³ Centers for Medicare and Medicaid Services, “Upcoming Requirements for Notification of Confirmed COVID-19 (or COVID-19 Persons under Investigation) Among Residents and Staff in Nursing Homes,” April 19, 2020, <https://www.cms.gov/files/document/qso-20-26-nh.pdf>.

⁴ National Institutes of Health, National Institute on Aging “Residential Facilities, Assisted Living, and Nursing Homes,” <https://www.nia.nih.gov/health/residential-facilities-assisted-living-and-nursing-homes>.

⁵ Boston Globe, “Assisted-living sites struggle with coronavirus in shadow of nursing home crisis,” Robert Weisman, April 26, 2020, <https://www.bostonglobe.com/2020/04/26/metro/assisted-living-sites-struggle-with-covid-19-shadow-nursing-home-crisis/>.

⁶ Centers for Disease Control and Prevention, “Considerations for Preventing Spread of COVID-19 in Assisted Living Facilities,” May 29, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assisted-living.html>; Centers for Disease Control and Prevention, “LTCF COVID-19 Module,” <https://www.cdc.gov/nhsn/ltc/covid19/index.html>.

Questions about risks to individuals in assisted living facilities are becoming even more acute as states have reopened prematurely⁷ and new cases have spiked to all-time record levels across the country.⁸

To address these issues, this staff report presents the first comprehensive analysis of the scope of COVID-19 outbreaks in assisted living facilities, and the actions their operators have taken to prevent and mitigate these outbreaks.

II. Findings

1. Thousands of Assisted Living Residents and Staff Have Suffered from COVID-19, and COVID-19 Fatality Rates for Assisted Living Residents are Extremely High

a. There are High Rates of Coronavirus Infection and High Fatality Rates for Assisted Living Residents

All 11 assisted living providers responded to the request and provided information on COVID-19 cases, hospitalizations, and fatalities at their facilities. These data reveal that thousands of assisted living facility residents have suffered from COVID-19 and three in ten residents who have contracted COVID-19 have died from the disease.

Specifically, the providers indicated that, as of May 31, 2020, a total of 4,412 residents in 2,173 facilities have tested positive for the coronavirus, representing 2.9% of the 153,244 residents that were living in these facilities at the time.⁹ While comparisons are sensitive to testing rates among different population groups, this is over five times the overall national average prevalence of the coronavirus as of May 31, 2020 (0.54%).¹⁰

There was at least one confirmed coronavirus case in 24% of all facilities (516 facilities) operated by the 11 companies that responded to the survey, and wider outbreaks of at least ten cases in 8% of all facilities (163 facilities) operated by the 11 companies.

Residents of assisted living facilities with COVID-19 had extremely high hospitalization rates and fatality rates from the disease. Overall, according to data the facilities provided, the 4,412 infections resulted in 1,914 resident hospitalizations—43% of all cases. And there were 1,373

⁷ See, e.g., The Texas Tribune, “Gov. Greg Abbott expresses regret over reopening Texas bars during coronavirus,” Patrick Svitek, June 26, 2020, <https://www.texastribune.org/2020/06/26/greg-abbott-texas-bars-regret/>; NPR, “Florida Smashes Coronavirus Case Record: Nearly 9,000 Positive Cases on Thursday,” Greg Allen, June 26, 2020, <https://www.npr.org/sections/coronavirus-live-updates/2020/06/26/883919402/florida-smashes-coronavirus-case-record-nearly-9-000-positive-cases-on-thursday>.

⁸ NBC News, “U.S. hits highest single day of new coronavirus cases with more than 45,500, breaking April record,” Doha Madani, June 24, 2020, <https://www.nbcnews.com/news/us-news/u-s-hits-highest-single-day-coronavirus-cases-36-358-n1232065>.

⁹ Data compiled from responses from assisted living providers to Sens. Warren and Markey and Chairwoman Maloney, May/June 2020.

¹⁰ There were 1.795 million individuals in the United States that tested positive for coronavirus as of May 31, 2020. The COVID Tracking Project, “U.S. Historical Data,” 2020, <https://covidtracking.com/data/us-daily>

resident fatalities from COVID-19—meaning that 31% of all assisted living facility residents who tested positive for the coronavirus died. Case fatality rates, like prevalence rates, are highly sensitive to testing frequency. But this fatality rate is nearly six times higher than the national average¹¹ and is comparable to, or even higher than, fatality rates for confirmed cases in nursing homes (according to CDC, there have been 111,508 confirmed and 76,547 suspected COVID-19 cases in nursing homes, and 30,794 fatalities from the disease).¹²

The 11 assisted living facility providers reported that they have a total of approximately 153,000 residents, representing approximately one in six of the 800,000 assisted living facility residents nationwide.¹³ If the observed infection and case fatality rate is representative of assisted living facilities nationwide, this investigation suggests that more than 7,000 assisted living facility residents may have died from COVID-19 as of May 31, 2020, representing approximately one in 15 COVID-19 fatalities nationwide at that time.¹⁴

The assisted living facilities noted in their responses that several factors complicate a determination of the true COVID-19 case count and the outcomes for those that test positive. Testing rates are one key variable. Facilities that test residents with minor symptoms or based on exposure are likely to have a higher proportion of confirmed cases to the total resident population (and a lower case fatality rate) than facilities that test only residents or staff with very serious symptoms. This complicates comparisons of case fatality rates for assisted living facilities, nursing homes, and the general public.

Assisted living facility operators also noted the possibility that assisted living residents or staff members may have been infected with coronavirus outside the facilities where they reside or work. They also noted that many of residents whose deaths were attributed to coronavirus also suffered from other comorbidities that could have contributed to their deaths. But it is likely that the estimates in this analysis represent an undercount of the true toll of coronavirus cases. Nationwide, the lack of testing has resulted in a significant underestimate of the true number of cases, with some experts estimating that, early in the pandemic, as few as one in 20 cases was correctly diagnosed.¹⁵ Similarly, the official tally of deaths appears to represent a significant undercount, failing to attribute thousands of fatalities to coronavirus that appear likely to have been caused by the disease.¹⁶

¹¹ As of May 31, 2020, there were 1.795 million individuals with confirmed positive test results for coronavirus, and 99,056 who died, a fatality rate of 5.5%. The COVID Tracking Project, “U.S. Historical Data,” 2020, <https://covidtracking.com/data/us-daily>.

¹² Centers for Medicare & Medicaid Services, COVID-19 Nursing Home Data, Submitted Data as of Week Ending 6/14/20, Resident Cases and Deaths,” June 2020, <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg>.

¹³ National Center for Health Statistics, “Long-term Care Providers and Services Users in the United States, 2015-2016,” Vital and Health Statistics Series 3, No. 43, at pg. 1, Feb. 2019, https://www.cdc.gov/nchs/data/series/sr_03/sr03_43-508.pdf.

¹⁴ As of May 31, 2020, there were 99,056 fatalities from COVID-19. The COVID Tracking Project, “U.S. Historical Data,” 2020, <https://covidtracking.com/data/us-daily>.

¹⁵ CNBC, “Coronavirus cases are likely 10 to 20 times higher in US than reported, former FDA chief Gottlieb says,” Dan Mangan, April 21, 2020, <https://www.cnbc.com/2020/04/21/coronavirus-cases-are-likely-10-to-20-times-higher-in-us-than-reported-former-fda-chief-gottlieb-says.html>.

¹⁶ Centers for Disease Control and Prevention, “Excess Deaths Associated with COVID-19, Provisional Death Counts for Coronavirus Disease (COVID-19), Updated June 24, 2020,

Extrapolation of the information provided from the 11 national providers to the nationwide estimate of approximately 7,000 fatalities is also sensitive to a number of key variables. If the facilities in the large chains surveyed are different from other assisted living facilities in terms of case prevalence and fatality rates, the reported case and fatality rates could be higher or lower in other facilities. Factors such as the location of facilities—for example, if a non-representative number of surveyed facilities were in particularly hard hit states or facilities were located in states that had more stringent health and safety requirements—and the demographic composition of residents of given facilities all may affect prevalence and case fatality rates. The uncertainty regarding these numerous variables is an important illustration of the need for a national reporting requirement for assisted living facilities.

b. COVID-19 Poses Risks for Assisted Living Facility Staff

The assisted living providers provided information on positive coronavirus tests in their staff. These data revealed that, like residents, staff faced significant risks from the disease. Overall, the assisted living providers reported that approximately 3,317 of their staff—2.1%—tested positive for coronavirus as of May 31, 2020. This is almost four times the national average prevalence (0.54%) as of May 31, 2020.¹⁷

Overall, 97 staff were hospitalized (3% of all staff who tested positive for the coronavirus), and there were 12 staff fatalities—a case fatality rate of 0.4%.

However, even if staff may not face the same risks of hospitalization or death from COVID-19 as residents, they present a risk of infecting assisted living residents. Overall, the assisted living companies reported that there were 425 facilities (20% of all assisted living facilities) where at least one staff member and one resident had contracted coronavirus.

2. There Is No Federal Reporting of COVID-19 Cases by Assisted Living Facilities

Each of the large assisted living facility operators was asked whether it informs residents and their families, local and state governments, and the federal government about cases in their facilities. The responses revealed a significant gap in federal reporting requirements.

The operators reported that they inform facility residents of infections and indicated that they follow applicable state and local reporting requirements. One provider described its reporting process:

While the notification procedure may vary based on location, in general, state and/or local officials are informed of all positive COVID-19 cases as required by

https://www.cdc.gov/nchs/nvss/vsrr/covid19/excess_deaths.htm; Washington Post, “CDC Chief Says Coronavirus Cases may be 10 Times Higher than Reported,” June 25, 2020, <https://www.washingtonpost.com/health/2020/06/25/coronavirus-cases-10-times-larger/>

¹⁷ There were 1.795 million individuals in the United States that tested positive for coronavirus as of May 31, 2020. The COVID Tracking Project, “U.S. Historical Data,” 2020, <https://covidtracking.com/data/us-daily>

any issued guidance. Notification is generally made by phone call or web based portal. ... All residents are informed in person if there is a COVID-19 positive resident or staff member. ... Family members and those with resident powers of attorney and resident personal care physicians are notified by phone call. General regular email outreach communications are sent to resident families.

Another noted:

Since early March 2020, in accordance with the appropriate local or state regulatory authority guidance, communities report positive COVID-19 cases to local public health departments, typically by phone, facsimile or email. ...

Residents of a community are informed of positive COVID-19 test results on a regular basis. Residents are notified through various, and sometimes multiple, forms of communication, including but not limited to emails, texts, letters, newsletters, websites, phone, posted signs or updates, electronic resident portal systems, and internal videos. Notifications are provided in accordance with applicable local or state laws. ...

Families or responsible parties are informed of positive COVID-19 test results on a regular basis, same as above.

Other providers noted their relationships with state and local health authorities and described how they notified other relevant individuals or entities, including third-party health care providers, resident physicians, and pending move-ins.

In some cases, operators stated that they informed the public of cases or posted information publicly on the internet. According to one operator:

A notice indicating that we have a positive COVID-19 case (resident or employee) is posted at the front entrance of the facility. ... A weekly update of positive cases is posted on the facility websites. The update includes the number of cumulative positive cases, number of cumulative recoveries, and number of cumulative COVID-19 related deaths. The weekly-consolidated update is posted on [the facility operator's] website. This update includes number of cumulative positive cases, number of cumulative recoveries and number of cumulative COVID-19 related deaths spanning the management portfolio.

But not one of the assisted living facility operators indicated that it informed federal officials of COVID-19 cases or fatalities in its facility, despite the CDC's recommendation that assisted living facilities report COVID-19 cases, facility staffing, and supply information to the National Healthcare Safety Network Long Term Care Facility COVID-19 Module.¹⁸ The assisted living facility operators cited the lack of any reporting requirement as the reason for not doing so. They responded:

- “We have not been required to notify federal officials for assisted living communities.”

¹⁸ Centers for Disease Control and Prevention, “Considerations for Preventing Spread of COVID-19 in Assisted Living Facilities,” May 29, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assisted-living.html>.

- “Currently, there are no federal requirements for reporting COVID-19 cases within assisted living facilities.”
 - “Current CDC guidance does not require community reporting to federal officials.”
- 3. Most Assisted Living Facilities Do Not Have Adequate Leave Policies in Place for Staff**

Providing staff with adequate leave policies is one key to helping reduce the transmission of COVID-19 in assisted living facilities and all workplaces. For this reason, CDC recommends that facilities “[i]mplement sick leave policies that are flexible and non-punitive”¹⁹ in order to ensure that employees that have or may have COVID-19 do not come into work and interact with residents and co-workers when they are ill.

a. Leave Policies Are Inadequate

The gold standard sick leave policy for employees is simple: at least two weeks of paid sick leave for any employees who believe they may have contracted or may have been exposed to someone with coronavirus, to allow them to quarantine without facing the financial penalty of lost paychecks.

Only two of the surveyed assisted living providers offer a benefit that is close to this gold standard. One assisted living provider said that early in the pandemic, “we began paying up to eighty hours of full pay to any employee who was sent home or stayed home because they were experiencing COVID-19 symptoms. This applied to all employees irrespective of their tenure or status. We did not require any medical diagnosis or testing confirmation.” The company reported that the plan was enhanced as the pandemic continued, “to cover those employees who were out due to a positive diagnosis of COVID-19. These employees were now eligible for up to thirty work days of paid leave.” A second company indicated that it will “pay any team member who experiences symptoms associated with COVID-19 or tests positive for the virus and is then required to self-isolate at home.”

Three others offer policies that cover only employees with a confirmed coronavirus diagnoses and not those who may need to quarantine as a result of exposure or who may have symptoms of COVID-19 but do not have a positive test result. One company indicated that employees who test positive are provided hotel rooms, meals, and paid time and a half until released by their physicians. Another stated: “All full-time and part-time employees who test positive for the virus receive incremental paid COVID-19 leave for up to an additional 15 working days.” A third reported having a similar policy in place, but access to this leave requires confirmed positive tests, so employees who have been exposed or are concerned that they have the virus may not take sick leave until they receive confirmed test results.

¹⁹ Centers for Disease Control and Prevention, “Considerations for Preventing Spread of COVID-19 in Assisted Living Facilities,” May 29, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assisted-living.html>.

The remaining six companies offer lesser policies, with limited or no sick leave, that do not guarantee workers all the coverage they need if they have COVID-19 or fear they may have it.

b. Several Providers Offer No Specific Paid Sick Leave or Inadequate Leave

Among the six companies that do not have specific COVID-19-related sick leave, the majority either do not offer enough leave to appropriately address the risks of COVID-19 or do not have any dedicated sick leave. Four of these companies do not offer specific sick leave at all—they indicated that instead they offer employees paid time off that can be used for vacation, personal leave, or sick leave. In effect, these companies are forcing employees who may have or fear they have coronavirus to use vacation or personal leave to mitigate risks to other workers and residents of the facility. Although this approach of combining sick leave and paid time off is not unique to assisted living facilities, it can have a particularly damaging effect in these communities given the risks of COVID-19.

Companies that either offer dedicated sick leave or that combine sick leave and personal time off do not appear to offer enough paid leave. Although one company reported it offered up to 25 days of leave, two stated they only offer six days leave, and a third said that less than half of their staff has access to more than one week of paid leave.

c. Providers Are Not Offering Leave to Part-Time Workers

Many assisted living providers are highly dependent on part-time workers. Among the 11 providers included in this survey, over 40% of their workers in 2019 were part-time workers.²⁰ Two of the 11 companies offer the gold standard leave policy to all full- or part-time staff who have or might have COVID-19. Of the remaining nine companies, five do not offer *any* paid sick leave to part-time employees. As a result, a significant number of workers in assisted living facilities appear to have no paid leave at all.

4. Assisted Living Facilities Lack Sufficient Testing Capacity and Have Inadequate Testing Protocols

Lack of available testing, which has plagued the U.S. response since the first case of COVID-19 appeared in the nation,²¹ is having a significant impact on assisted living facilities. All 11 assisted living facility operators provided information concerning their practices for conducting testing in their facilities, access to testing supplies, and the speed of test results. Their reported information reveals that lack of federal requirements and limited testing capacity for residents and staff has led to a lack of needed testing, which increases the risk of coronavirus outbreaks.

a. Assisted Living Facilities Are Not Conducting Routine Coronavirus Testing

²⁰ 140 Largest Providers in Senior Living, downloaded from Argentum, “Argentum Reveals 2019 List of Largest 140 Providers in Senior Living,” September 4, 2019, <https://www.argentum.org/press-releases/argentum-reveals-2019-list-of-largest-140-providers-in-senior-living/>.

²¹ New York Times, “The Lost Month: How a Failure to Test Blinded the U.S. to Covid-19,” March 28, 2020, <https://www.nytimes.com/2020/03/28/us/testing-coronavirus-pandemic.html>.

Routine coronavirus testing is needed to identify asymptomatic coronavirus carriers who are capable of transmitting the virus to others despite their lack of symptoms. Routine testing is particularly important for congregant living settings such as assisted living facilities where older residents may have chronic health conditions that put them at high risk for serious outcomes. CDC has not recommended routine testing of asymptomatic individuals in assisted living facilities. However, some states, including New York and New Jersey, now require routine testing at adult care facilities, including assisted living facilities.

None of the assisted living facility operators reported that they conduct routine daily or weekly testing of staff, residents, or visitors at all their facilities. Most operators cited the lack of federal guidelines requiring such testing as the reason they do not conduct more routine testing. A number of operators reported relying specifically on CDC’s guidance for assisted living facilities, which recommends only testing symptomatic individuals and for contact tracing purposes.²²

All facility operators reported following federal, state, and local guidance that recommends testing of symptomatic staff and residents, and conducting testing at the request of state and local health departments. In their responses, most operators reiterated that CDC guidance does not recommend routine testing. One operator reported conducting routine testing as New York and New Jersey require—but only in its facilities located in those two states.²³

Most assisted living facility operators reiterated that national guidance from the CDC does not recommend routine testing. However, CDC’s May 3, 2020, testing guidelines indicate that testing of asymptomatic individuals in long-term care facilities “could reduce the risk of widespread transmission”²⁴ of COVID-19, and the American College of Emergency Physicians recommends more robust testing of asymptomatic individuals in long-term care facilities, stating: “Another population in which to prioritize testing of minimally symptomatic and even asymptomatic persons are long-term care facility residents.”²⁵ Assisted living facilities are either unaware of, or are not following, this non-binding recommendation.

In lieu of routine testing, assisted living facilities rely on screening for symptoms of the disease, with screening procedures varying widely across respondents. Although a few operators reported more comprehensive screening procedures—including multiple daily temperature checks of staff and residents and measuring residents’ oxygen levels, most facilities reported more limited screening procedures—such as verbally screening residents for a range of symptoms at least once per day and screening staff and essential visitors on arrival.

b. Assisted Living Facilities Do Not Have Access to an Adequate Number of Tests

²² Centers for Disease Control and Prevention, “Considerations for Preventing Spread of COVID-19 in Assisted Living Facilities,” May 29, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assisted-living.html>.

²³ New York State Exec. Order No. 202.30 (May 10, 2020) (requiring twice-weekly testing of staff); New Jersey Exec. Order No. 20-013 (May 12, 2020) (requiring routine testing of all staff and residents).

²⁴ Centers for Disease Control and Prevention, “Overview of Testing for SARS-CoV-2,” <https://www.cdc.gov/coronavirus/2019-nCoV/hcp/clinical-criteria.html>.

²⁵ American College of Emergency Physicians, “ACEP COVID-19 Field Guide,” June 2020, <https://www.acep.org/corona/covid-19-field-guide/diagnosis/testing/>.

For both routine and symptom-based testing programs to be effective, assisted living facilities must have access to an adequate supply of tests. No facility operators reported difficulty in obtaining tests for symptomatic individuals, but nearly all reported substantial barriers to accessing testing supplies for routine testing of asymptomatic staff and residents. One provider explained:

Because there are insufficient amounts of testing resources available to [assisted living facility] communities, currently, there is no routine, daily or weekly testing of residents, staff and visitors.

Nearly all facility operators reported relying on state and local health departments as their primary source of tests. These operators noted that health departments rarely allocate tests for asymptomatic individuals unless conducted as part of a contact tracing program.²⁶ Many facility operators also noted that when local health departments did not order testing for asymptomatic individuals, physicians were also unwilling to order tests.

c. Assisted Living Facilities Are Waiting More Than 24 Hours for Test Results

Rapid return of test results is crucial for timely and accurate isolation of infected individuals. Most facility operators noted that individuals with pending tests are presumptively quarantined until results are returned—necessitating significant use of PPE and other resources.

No assisted living facility operator reported average test result times under 24 hours, and most reported an average time to result of between 36 and 48 hours. Wait times varied widely across responses, ranging from 24 hours to ten days or more.

Respondents generally reported that commercial laboratories were slower and less reliable than those used by local health departments. Two respondents had secured contracts with third-party laboratories such as labs located at academic medical centers. These laboratories were reported to provide more consistently timely results—under 48 hours.

5. Assisted Living Facilities Have a Significant Need for Personal Protective Equipment

Proper use of readily available PPE is critical to preventing the spread of coronavirus in assisted living facilities, and CDC recommends that all assisted living facility staff that interact with residents or clean residents' rooms use appropriate PPE, including respirators, gloves, eye protection, and gowns.²⁷ Although facility operators reported following state and federal guidelines for PPE use, and provided PPE to employees at no cost, they also reported facing tremendous financial and logistical difficulties obtaining adequate PPE for their staff.

²⁶ Although some operators observed full-facility testing in response to contact tracing efforts, most did not describe such comprehensive testing.

²⁷ Centers for Disease Control and Prevention, “Considerations for Preventing Spread of COVID-19 in Assisted Living Facilities,” May 29, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assisted-living.html>.

a. Facility Operators Faced Exceptional Difficulty in Obtaining Adequate PPE

Numerous assisted living facility operators cited the exceptional cost of obtaining adequate PPE as a barrier to providing this equipment to employees. Several operators reported spending more than \$1 million per month over the course of the pandemic to purchase and distribute PPE to employees. One operator reported passing along approximately \$2 million in PPE costs to facility residents. Assisted living facilities to date have not been included in direct federal funding and assistance programs that are open to nursing homes and health care providers.

A number of operators also described severe logistical difficulties obtaining and distributing PPE. Two operators organized intra-company regional supply and command hubs to coordinate distribution of PPE to their facilities. One operator chartered aircraft to ensure timely delivery. Others entered into partnerships with third-party companies to manufacture hand sanitizer and reusable gowns and to disinfect facilities with positive cases. Two operators emphasized that ensuring PPE availability was difficult because assisted living facilities are not prioritized for PPE disbursement from state and federal stockpiles, relative to other health care facilities. As one facility manager noted:

- “[The Company] has spent a considerable amount of time, energy, and effort on obtaining gloves, masks, gowns, and face shields for use at its communities.”
- “The PPE procurement process has been a focus of extraordinary effort on our part due to widespread challenges in procuring adequate PPE supplies on a timely basis.”

b. Despite Financial Challenges, All Facility Operators Reported Providing Appropriate PPE to Employees at No Cost

All facility operators responded that their PPE policies complied with federal and state guidelines, including the CDC’s guidance for assisted living facilities.²⁸ In line with this recommendation, nearly all operators responded that staff were required to wear cloth or surgical masks at all times, with N95 respirators, gowns, gloves, and goggles typically reserved for symptomatic, confirmed, and presumptively positive residents.²⁹

Beyond providing facemasks to employees, assisted living facility operators varied in their PPE policies. Many operators required N95 respirators to be used in any facility with a confirmed case, and some required gloves and gowns to be worn at all times. Some operators reported allowing cloth masks to be used in low risk settings. On the other end of the spectrum, one facility reported providing employees N95 respirators and gloves to wear on public transportation to and from work, as well as full scrubs for employees on arrival to work.

²⁸ Centers for Disease Control and Prevention, “Considerations for Preventing Spread of COVID-19 in Assisted Living Facilities,” May 29, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assisted-living.html>. This guidance recommends, in part, that “[p]ersonnel should wear a facemask ... at all times while they are in the facility.”

²⁹ However, one facility operator noted that it allows employees to remove masks during meals and breaks.

III. Conclusion and Recommendations

Residents who live in assisted living facilities are more likely to suffer from COVID-19 than the general public, and among the assisted living facilities surveyed almost one-third of residents with confirmed cases of the disease have died. If this rate is representative of assisted living facilities nationwide, as many as 7,000 assisted living facility residents may have died from COVID-19 as of May 31, 2020, representing approximately one in 15 COVID-19 deaths nationwide.

Despite the high risk for assisted living residents, there is no federal reporting requirement for COVID-19 cases at assisted living facilities, and there are no federal requirements or assistance available for testing residents or staff or providing PPE for staff use.

Inadequate sick leave policies for assisted living facility staff, which may force staff to choose between coming to work when feeling sick or going without a paycheck, contribute to these high risks. These gaps contribute to a significant public health threat from COVID-19 for residents in assisted living facilities.

A number of policy changes could be made to address the deficiencies uncovered through this investigation. Primarily, in order to understand the scope and severity of the pandemic within assisted living facilities, facility operators' COVID-19 data should be regularly reported to the federal government.

In addition, the federal government should take a more active role in ensuring that long-term care facilities, including assisted living facilities, have adequate tests and supplies to conduct routine testing of residents and staff, and sufficiently equip staff with PPE. Finally, assisted living facilities should receive support through federal programs designed to protect long-term care facility residents and staff.