



Nursing Home Weekly: Recap of LeadingAge Updates

July 30, 2021

What does the change in CDC guidance say – and why was it changed? What does it mean for LeadingAge members? LeadingAge Coronavirus Calls next week. On the call on Monday, August 2 at 3:30 PM ET, hear returning guest **Dr. Nimalie Stone** of CDC, as she discusses how CDC is thinking about the Delta variant, the new masking guidance, the differences between the three approved vaccines in terms of breakthrough infections, CDC views on mandates, and other critical issues. As always, Nimalie will talk about how these issues apply specifically to aging services and long-term care providers. **Dr. Monica Gandhi will be back on Wednesday, August 4 at 3:30 PM ET.** Every time Monica has joined us, even in the darkest days of COVID, she's spoken directly and, as many callers said last time she appeared – "she made me feel so much better." Her informed views of what's coming next have mostly turned out spot on. Join us Wednesday to talk Delta variant, testing, PPE, and all the burning COVID questions on everyone's mind right now. If you haven't registered for the calls, [you can do so here.](#)

Biden federal employee vaccine announcement. Thursday afternoon President Biden directed all federal workers and **onsite** contractors to be vaccinated or otherwise submit to regular COVID testing. Onsite contractors are contractors who work in federal buildings and workplaces. Nongovernmental organizations that receive federal funds are **NOT** included in this directive.

SNF and Hospice Rules Finalized: Thursday, CMS published the final [FY2022 rules for the Skilled Nursing Facility Prospective Payment System, Consolidated Billing, Quality Reporting Program and Value-Based Purchasing Program](#); and [FY2022 Hospice Payment Rate Update](#). We are currently reviewing them and assessing how they compare to what was proposed. Initial review on the final SNF PPS rules appears to suggest that the proposed 5% PDPM parity adjustment will not be applied for FY2022 but will be reconsidered for the FY2023 rules.

DOL Published Rule Increasing the Minimum Wage for Federal Contractors. The Department of Labor recently published a [proposed rule on increasing the minimum wage for federal contractors](#). Comments are due on August 23, 2021. This follows up on the [Executive Order](#) President Biden signed in April 2021 to increase the federal minimum wage for federal contractors. The rule is similar to what the Obama administration did back in 2014, when a DOL final rule increased the minimum wage for federal contractors to \$10.10/hr. It is now \$10.95/hr based on indexed increases. This would apply to new federal contracts or contract renewals starting or after January 30, 2022. It would apply to those nursing homes and other provider types that specifically contract with the VA for the care of residents who are veterans and get reimbursed through the VA system. This does **not** apply to providers who just take Medicare and Medicaid – they are not federal contractors under this order, but rather just get reimbursement under these programs. We will continue to review and analyze the proposed rule and provide updates as we get more information.

NHSN Changes coming FALL 2021 - Revision Update. CDC released a [one pager](#) outlining the changes to NHSN Covid-19 Vaccination Data Collection Forms for Health Care Personnel slated for the Fall of 2021. There are 4 main changes: Question #1 will no longer have current healthcare personnel categories data collected - this will be replaced with NEW categories including: employees, licensed independent practitioners, adult students/trainees and volunteers and other contract personnel. Question #3.2 and #3.3 will now be REQUIRED. Question #4 will now be optional and facilities will need to create a monthly reporting PLAN before entering data into NHSN. The one pager gives a preparation advice as well as contact information and the announcement of training webinars for the Fall. Any questions, please contact NHSN@cdc.gov with COVID-19 Vaccination Data Reporting in the subject line.

Senate votes to move forward on infrastructure. Congressional update. The Senate negotiators and the White House reached an agreement on a bipartisan infrastructure bill. A White House Fact sheet on the deal can be found [here](#). The Senate took a procedural vote and passed a motion 67-32 agreeing to proceed with debate on the bipartisan infrastructure deal that was announced earlier.. Minority Leader McConnell voted in favor of proceeding in addition to a number of other Republicans. This does not guarantee that the bill will ultimately pass but it is a critical juncture.

So far, the Senate has been operating on the assumption that if they get this bipartisan infrastructure proposal passed, it will help assuage concerns of more moderate Democrats about the size of the reconciliation package and concerns about partisanship. However, there are also more progressive Senators who do not want to see the bipartisan bill go forward without guarantees that a reconciliation package will follow. These concerns must be balanced. Another factor is the House- Nancy Pelosi has said she isn't going to move the bipartisan bill without the more expansive package and a number of House progressives have said on social media today they won't vote for the bipartisan bill without action on a more expansive package. We encourage you to [take action here](#) to ensure our priorities are heard as these dynamics play out.

Paycheck Protection Program Update. The [SBA](#) announced that they plan to launch a [Paycheck Protection Program \(PPP\)](#) portal on August 4 that should speed up decisions on whether the still outstanding loans of 150,000 or less will be forgiven or if businesses will need to repay them. Rather than working with your lender, there's a good chance you'd be able to work directly with the SBA if you took a loan of 150k or less. Lenders would still have a say in whether the debt is converted to a grant but the idea is to reduce the workload burden on the financial institutions and also speed up the process for businesses. We will send any more information from SBA on the portal when we have it.

Federal COVID Response Team Facebook Live Event on Variants. The Federal COVID Response Team is offering a Facebook Live Event featuring experts from the HHS Office of the Assistant Secretary for Preparedness and Response (ASPR) on Thursday, August 5 at Noon ET. Here's the link to participate: <https://www.facebook.com/CombatCOVIDgov>. In addition, the Team's [CombatCOVID website](#) has a number of new resources, including testimonials that are in the public domain and may be used on your organization's website. Dr. Reed Tuckson of the Black Coalition Against COVID-19 is featured in a [video](#) on the website on how clinicians can counsel their patients regarding vaccination and monoclonal antibody treatment.

CDC Call with Health Care Providers on Delta Variant. LeadingAge participated in an invitation only call for health and long-term care providers, convened in light of surging numbers of positive cases and the [new masking guidance](#) released today. "Much of the increase in spread of the Delta variant is driven by

low vaccination rates, especially among health care providers,” a CDC official said. Among the top points covered:

- **The new guidance on masking is only guidance; it recommends that fully vaccinated people wear a mask indoors, reversing earlier guidance. State and local jurisdictions will need to make their own decisions about whether to take action and what action to take.**
 - No specific guidance from CDC around capacity of indoor spaces; that is up to the jurisdictions.
- **Vaccines remain the most effective defense against transmission.**
 - CDC “can’t issue mandates at this time,” but encourages providers and health systems to “move in that direction. We encourage consideration of mandates.”
- **Transmission of Delta variant**
 - It is looking so far like viral loads with Delta are comparable for infected people who have been vaccinated or are unvaccinated. Potentially, they may be equally likely to transmit the Delta variant virus.
- **Breakthrough infections.**
 - Breakthrough infections are inevitable. Anything – like the Delta variant – that increases transmission is going to increase the number of breakthrough infections.
 - So far there is no evidence of reduced vaccine efficacy with Delta.
 - CDC seems especially concerned about breakthrough infections in nursing homes where they are most likely to cause severe illness, hospitalizations, and deaths.
 - CDC is tracking breakthrough infections that result in hospitalizations and deaths, but for a variety of reasons not tracking the role of the Delta variant in all cases, especially not in asymptomatic infections.
 - They are working on new messaging about breakthrough infections.
- **Should providers change what they are doing?**
 - None of the guidance has changed except masking.
 - CDC continues to recommend that exposed health care workers be tested and if positive, quarantine.
 - Today’s guidance does not address mask types.
 - In terms of further sanitation guidance – nothing new today. CDC reinforces and will reiterate that while environmental factors play a limited role in transmission, high touch surfaces should be cleaned often.

Additional materials sent from CDC after the call. Here is a [packet](#) from CDC that members and state partners can use to talk about the Delta variant. In addition, after the call, CDC provided the following two items:

- **Morbidity and Mortality Weekly Report (MMWR)**
Guidance for Implementing COVID-19 Prevention Strategies in the Context of Varying Community Transmission Levels and Vaccination Coverage
Given the spread of the highly transmissible Delta variant, local decision-makers should assess the following factors to inform the need for layered prevention strategies across a range of settings: level of SARS-CoV-2 community transmission, health system capacity, vaccination coverage, capacity for early detection of increases in COVID-19 cases, and populations at risk for severe outcomes from COVID-19.

Although increasing COVID-19 vaccination coverage remains the most effective means to achieve control of the pandemic, additional layered prevention strategies will be needed in the short-term to minimize preventable morbidity and mortality. **Read more here:** [Guidance for Implementing COVID-19 Prevention Strategies in the Context of Varying Community Transmission Levels and Vaccination Coverage | MMWR \(cdc.gov\)](#)

- **CDC Health Advisory**

Vaccination to Prevent COVID-19 Outbreaks with Current and Emergent Variants — United States, 2021

The Centers for Disease Control and Prevention (CDC) is issuing this Health Alert Network Health Advisory to notify public health practitioners and clinicians about the urgent need to increase COVID-19 vaccination coverage (i.e., the percentage of the population fully vaccinated) across the United States to prevent surges in new infections that could increase COVID-19 related morbidity and mortality, overwhelm healthcare capacity, and widen existing COVID-19-related health disparities. Increasing vaccination coverage is especially urgent in areas where current coverage is low. Unvaccinated persons account for the majority of new COVID-19 infections, hospitalizations, and deaths. Currently circulating SARS-CoV-2 variants of concern, especially the highly infectious Delta variant (B.1.617.2), are accelerating spread of infection. Unvaccinated and partially vaccinated people need to practice all recommended prevention measures until fully vaccinated. In areas with substantial and high transmission, CDC recommends that fully vaccinated individuals wear a mask in public indoor settings to help prevent the spread of Delta and protect others. **Read more here:** [HAN Archive - 00447 | Health Alert Network \(HAN\) \(cdc.gov\)](#)

SNF Open Door Forum: A SNF Open Door Forum is scheduled for Thursday, August 5 at 2pm ET. The ODF will focus, in part, on the SNF PPS FY 2022 final rule. The final rule is not yet out but seeing as how it's the topic of the call, we can assume it will be released within the next week. Dial in info as follows: 1-888-455-1397 & Conference Passcode: 8604468

Top Nursing Home Citations in July. [Here](#) is an article summarizing the frequently cited F-tags for complaint surveys and annual health surveys. Janine (JFinck-Boyle@leadingage.org) is available to answer questions.

LeadingAge statement supporting COVID-19 Vaccine mandates. Today, LeadingAge issued a [statement](#) strongly urging all residents and staff in long-term care to get vaccinated. LeadingAge specifically supports requiring vaccines for current and new staff in LTC and other health care settings. Here's a [press release](#) with Katie Sloan's statement. In addition, LeadingAge is part of a group of more than 50 health and aging services organizations that today issued a [joint statement](#) in support of vaccine mandates for all health and LTC workers. There was significant coverage in the media including this piece in the [Washington Post](#).

Update on Vaccine Mandates as a Condition of Employment for Providers. Here is a quick overview of the latest news on COVID-19 vaccine mandates in the employment setting, as reported on the Coronavirus Update Call today by Cory. The best resource on addressing vaccine mandates is the [EEOC Guidance](#) on what you need to know about COVID-19 Vaccines, the ADA, and other considerations relative to federal employment and discrimination laws.

- The federal government probably does not have the authority to institute a national vaccine mandate for all citizens and there is no indication this administration or Congress would attempt to do so. The federal government and their respective agencies do, however, have

the authority over the federal workforce. The Veteran’s Affairs (VA) department announced today that it plans to mandate the vaccine for its healthcare workforce.

- A state's power to mandate vaccines to protect public health is well-established and states (and localities like New York City) are currently addressing mandates or prohibiting mandates in a variety of settings including healthcare, schools, and private businesses. These stories are all over the news and discussions at the state legislatures identify a range of options under consideration.
- That leaves the third arena - private employers. Providers, as private employers, have no prohibition on vaccine mandates under federal law so they really need to stay attuned to what is happening on the state level as mentioned above.
- Two recent court decisions have addressed whether a hospital or public university can mandate a COVID-19 vaccine for employees and students. Both of these cases upheld the vaccine mandate, even while the current vaccines are only under Emergency Use Authorization. Based on these decisions we will likely see more public and private employers implement mandates before we see full FDA approval of the Pfizer and Moderna vaccines.
- Finally, if providers implement a policy requiring a COVID-19 vaccine (or other vaccine) as a condition of employment, federal and state law allows employees to request an exemption based on a disability/medical condition or religious objections. Providers should carefully review the EEOC guidance as well as any corollary state law guidance on how to implement such a program within their organization. There is a process in how to address any exemptions to a vaccine mandate and those with flu vaccine mandates should be familiar with this accommodations process already. See this [SHRM article](#) for more information.

CMS data site and county positivity for testing: CMS has (without warning) redesigned the CMS data site to which nursing homes must refer to determine routine testing of unvaccinated staff based on county positivity rates. The information is still available at data.cms.gov. To locate it, scroll down on the main page to “Most viewed datasets” and click on COVID-19 Nursing Home Data. Here’s the quick link: <https://data.cms.gov/covid-19/covid-19-nursing-home-data>

Care for Our Communities: Investing in the Direct Care Workforce Hearing Article. The House Education and Labor Subcommittees on Health, Employment, Labor, and Pensions and the Subcommittee on Higher Education and Workforce Investment held a joint hearing, titled “[Care for Our Communities: Investing in the Direct Care Workforce](#)” on Tuesday, July 20, 2021. The hearing was an opportunity to address the *Direct Creation, Advancement and Retention of Employment (CARE) Opportunity Act* (H.R. 2999), sponsored by House Education and Labor Committee Chairman Bobby Scott (D-VA). You can access an article on the hearing [here](#).

National Academies release Alzheimer’s Decadal Study, plan workshop. Today the National Academies of Sciences, Engineering and Medicine posted “[Reducing the Impact of Dementia in America: A Decadal Study of Behavioral and Social Science Research](#).” The report presents a ten year plan for dementia related research On August 4, from 2:00 – 3:00 PM ET the National Academies will host an event marking the virtual release of the report. Here is a [link](#) to register for the event. In short, the report emphasizes that research should focus on helping people who experience dementia today, on services and supports, not just pharmaceuticals.

Opening Doors to Aging Services: Research Launch. The public, media, and policymakers are more focused on the aging services sector than ever before. LeadingAge is seizing this moment to support our

members, the broader aging services sector, and the millions of older adults and families you serve. In January 2021, we launched the Opening Doors to Aging Services initiative to better understand public views and perceptions of the aging services sector.

The initiative is grounded in original research that assesses the external factors and public perceptions that exist today. This [extensive body of work](#) is now available for LeadingAge members, partners, and the field. You'll find an executive summary, landscape visualizations, and a deep dive into all our detailed findings. This learning is the foundation for the next phase of the Opening Doors to Aging Services initiative, which will include strategies and guidance for leveraging the research for impactful communications about the aging services sector, as well as tools and templates for turnkey implementation.

Visit LeadingAge.org to [explore the findings now](#). (And join us for dedicated sessions and networking meet-ups at the [Annual Meeting!](#))

New Education Program Tracks at the 2021 LeadingAge Annual Meeting + EXPO. Join us this fall at the 2021 LeadingAge Annual Meeting to be connected to learning opportunities that you simply can't find anywhere else. We don't shy away from the tough topics—and you can count on your peers for openness and support through even the most difficult discussions. No matter what the subject matter of the sessions you choose, you'll walk away with measurable, actionable, and scalable ideas to apply when you get back home. New this year: special program tracks dedicated to Diversity, Equity, and Inclusion and Governance and Leadership. [Learn more and register](#).