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Webinar Series COVID-19: CALTCM Rounds

August 17, 2020

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Webinar Faculty

Kathleen "Suki" De Jesus, BSN, RN
Regional Director of Clinical Operations;
Mariner Health Care



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Webinar Faculty

Dolly Greene RN, BSN, CIC
Infection Prevention & Control Resources
Expert Stewardship; VP of Infection
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Webinar Faculty

Colin Harrison, Esq.

Partner at Wilson Getty LLP



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Webinar Faculty

Jay Luxenberg, MD

Chief Medical Officer, On Lok
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Webinar Faculty

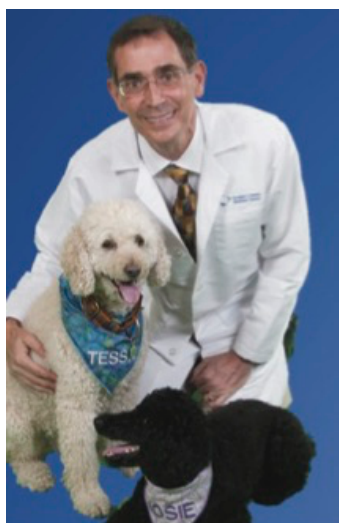
KJ Page, RN-BC, LNHA

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Webinar Moderator & Faculty

Karl E. Steinberg, MD, CMD, HMDC

President-Elect, AMDA: The Society for Post-Acute and Long-Term Care Medicine;
CALTCM BOD Member; Chief Medical Officer,
Mariner Health Care; Past Chair, Coalition for
Compassionate Care of California



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Webinar Faculty

Michael Wasserman, MD, CMD

Geriatrician, President, CALTCM,
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Webinar Faculty

Thomas Yoshikawa, MD

Associate Chief of Staff for Geriatrics &
Extended Care; Clinical Liaison for GLAHS &
West LA State Veterans Home; VA Greater
Los Angeles Healthcare System;
Distinguished Professor of Medicine, Geriatric
Medicine & Infectious Disease; David Geffen
School of Medicine at UCLA; Research
Professor, Charles R. Drew University of
Medicine & Science; Editor in Chief Emeritus,
Journal of the American Geriatrics Society



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Ask the Expert: Risk Management and Quality of Care in the Time of COVID

Featuring (alphabetical order)



(Left to right) Kathleen De Jesus, BSN, RN; Dolly Greene RN, BSN®, CIC; Colin M. Harrison, Esq.; Jay Luxenberg, MD; KJ Page, RN-BC, LNHA; Karl Steinberg, MD, CMD, HMDC; Michael Wasserman, MD, CMD and Thomas Yoshikawa, MD

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COVID-19 Civil Claims & Allegations

We are seeing a rise in lawsuits and claims associated with COVID-19. The claims against SNF's are focusing on allegations that the Facility failed to:

- implement a clear plan of action leading to systemic failure.
- isolate infected residents and/or staff
- Adequately test residents and staff
- provide enough personal protective equipment
- adequately train staff in COVID-19 precautions
- follow infection prevention and control program (IPCP) in compliance with 42 CFR section 483.80
- designate one or more individual(s) as the infection preventionist(s) (IPs) who are responsible for the facility's IPCP
- assign at least one individual with training in IPC to provide on-site management of their COVID-19 prevention and response activities
- implement an infection control committee in compliance with 22 CCR § 72525
- implement and/or follow facility infection control policies and procedures
- limit visits and/or warn families and/or residents about potential COVID-19 exposure.
- notify patients and families concerning COVID-19 positive tests within facility and/or exposure



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COVID-19 Civil Claims & Allegations (Cont.)

Plaintiffs are also alleging:

- Facility had a pattern & practice of infection control related deficiencies and/or citations (Use Regulatory History).
- Facility was Understaffed.
- Facility delayed in elevating symptomatic (respiratory distress, fever, etc.) patient to higher level of care.
- Facility admitted COVID-19 + patients to increase overall reimbursement rates.
- Facility failed to report COVID-19 positive tests to appropriate authorities.



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Best Practices to Reduce Civil Liability Exposure Related to COVID-19

Documentation is key!

- Document compliance with all CMS and CDPH regulations and COVID guidance
- Memorialize any advice from CDPH, CMS, County Health & Human Services, in a follow up email to document what they have told you
- Document and/or memorialize any requests made to CDPH, CMS, and State or County officials
- If there are staffing shortages or PPE shortages, be sure to document all efforts to obtain additional staffing and PPE
- Keep detailed records including sign in sheets regarding all In-service and other staff training on COVID protocols including training on use of PPE
- If there is an outbreak- be sure to meticulously document for each staff member and resident- the date of first signs or symptoms, the signs or symptoms observed or reported, date of testing, date test results were returned, instructions given to the staff members pending receipt of results, whether residents were placed in isolation pending testing results and all room reassignments
- Document IDT Involvement in decision-making for each patient
- Document any and all infection control protocols put into place by the facility
- Develop a COVID-19 timeline



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Best Practices to Reduce Civil Liability Exposure Related to COVID-19 (Cont.)

- Ensure you maintain and follow an infection prevention and control program (IPCP) in compliance with 42 CFR section 483.80 – See F880 Infection Prevention & Control.
 - The Infection Prevention and Control Program must be reviewed and updated annually and as needed. If you have not done so, now is a good time!
 - Ensure IPCP still aligns with the Facility Assessment (also required to be updated annually) to ensure that the IPCP is comprehensive and facility-specific.
 - The medical director should be a vital member of every center's infection prevention and control program, and should be a leader in quality assurance/performance improvement (QAPI in addition to merely attending the center's mandatory Quality Assessment & Assurance committee meetings
- Designate an Infection Preventionist responsible for the facility's IPCP – See F882 Infection Preventionist.
 - Best practice to have more than one staff member who has participated in the appropriate Infection Preventionist training
- Ensure that the Infection Control Committee shall meet at least quarterly.
 - Establishing, reviewing, monitoring and approving policies and procedures for investigating, controlling and preventing infections in the facility.
 - Maintaining, reviewing and reporting statistics on the number, types, sources and locations of infections within the facility.
- Update infection control P&P to reflect current CDC guidelines.
- Develop and implement a CDPH approved COVID-19 mitigation plan (See AFL 20-52).
- Hold weekly/bi-weekly meetings with facility leadership to discuss latest updates and processes, policy changes that are related to COVID-19.



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Best Practices to Reduce Civil Liability Exposure Related to COVID-19 (Cont.)

- Ensure you have adequate PPE supplies. Partner with vendors to obtain PPE supplies and reserves and address any supply chain issues.
- Implement COVID-19 stop stations at front entrances of all facilities using COVID-19 screening tools (e.g. temperature, oxygen saturation, ask questions related to symptoms – cough, sore throat, shortness of breath, etc.).
- Conduct testing of all residents and staff per CDC and/or CMS guidelines, including Baseline, Surveillance, and Response driven testing.
- Limit visitation from consultants, vendors, any regional managers, families and visitors per the CMS guidelines.
- Create Plans for use and follow-up of test results, including:
 - How results will be explained to the resident or HCP
 - How to communicate information about any positive cases of residents or HCP in the facility to family members or responsible parties
 - How results (positive or negative) will be tracked for residents and HCP at the facility, and methods for communication of facility results with the local health department
 - How results will be used to guide implementation of infection control measures, resident placement, and HCP and resident cohorting
 - How results will be communicated to ensure appropriate management when residents are transferred to other congregate settings
 - Plans for serial retesting of residents and HCP who test negative and are still within 14 days of their last exposure to a positive resident or HCP in the facility
 - Plans to address potential staffing shortages if positive HCP are excluded from work



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Best Practices to Reduce Civil Liability Exposure Related to COVID-19 (Cont.)

- Conduct temperature check and rounds on all of the residents multiple times a day
- Report COVID-19-related illnesses and deaths to local health officer (Title 17 CCR 2500(j))
- Report daily COVID-19 facility data to the California Department of Public Health (CDPH) via an online survey (Title 42 CFR section 483.80(g))
- Quarantine all new and/or re-admissions per the CDC guidelines
- Quarantine staff members who test positive, present with any symptoms, and/or were exposed to COVID-19 per CDC & CDPH guidelines
- Monitor data and trends within local community
- Pull and review prior deficiencies/citations related to infection control from 1/1/17 through present
 - Ensure that all POCs have been implemented and documented
- Provide In-service and other staff training on COVID protocols including training on use of PPE



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Best Practices to Reduce Civil Liability Exposure Related to COVID-19 (Cont.)

- Utilize registries and communicate staffing needs to DPH.
- Incentivize staff with considerations such as (hazard pay, increased pay, etc.).
- Staffing levels shall be 3.5/2.4 by July 10, 2020.
 - Only those SNFs experiencing a COVID-19 related surge of patients or staffing shortages resulting from COVID-19 impacts may request a staffing waiver. SNFs with staffing waivers must maintain sufficient staffing levels for safety and must have a plan in place to resume mandatory staffing levels as soon as feasible. Temporary staffing waivers will only be approved for a maximum of 90-days.
- Avoid (as much as possible) overlap with staff working at multiple facilities.
- Ensure that staff is communicating with physicians and Medical Director when patient presents with COVID-19 symptoms.
- Ensure that staff is communicating with patients and families regarding facility's COVID-19 response and any updates and/or exposure.
- Ensure your Emergency Operations Plan is implemented and report to CDPH.
- Consider utilizing Negative Air Pressure Rooms for COVID positive patients.
- Isolate Presumed positive under investigation ("PUI") patients in separate wing.



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Best Practices to Reduce Civil Liability Exposure Related to COVID-19 (Cont.)

- Recommendations made by government & related agencies should serve as guidance. A failure to comport with them will be relied upon by future plaintiffs.
- Bottom line, making informed decisions based on the most up-to-date information will be valuable evidence to rely upon for proposition that the facility was doing its best to protect its patients and the population at large.



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Arbitration as a Risk Management Tool

- Only “non-care related” way to manage risk
- Challenges in enforcing the agreement
 - How the agreement is presented
 - Who signs the agreement (patient, DPOA, family member, patient representative)
- * Must train the facility employee who presents the agreement & secures the signature




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MOST COMMON CHALLENGES OF DONs DURING AN OUTBREAK



WHERE DID ALL THE STAFF GO?

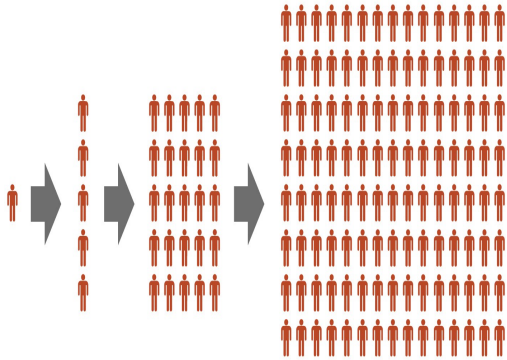
- **TOP REASONS:**
- Sick
- Fear of Covid-19
- **HOW CAN YOU PREVENT THIS?**
- Fear should be addressed before outbreak starts – GOOD EDUCATION
- Staff needs to fully understand how Covid-19 is transmitted
- Staff needs to fully understand how to protect themselves
- Staff needs to fully understand how to protect our residents and co-workers




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Most Common Challenges of DONs During an Outbreak



HOW TO STOP TRANSMISSION IMMEDIATELY?




- **TRANSMISSION RISK FACTORS:**
- PPE use (donning and doffing)
- Infection Control practices – staff who take short cuts
- **HOW CAN YOU ACHIEVE THIS?**
- Resident care ratio – be realistic – prevent staff from cutting corners by having adequate staff
- Adequate direct care staff – utilize non-direct care staff in assisting direct care staff ie. vital signs, supplies, resident requests etc.
- Review where PPE and supplies are located
- Have PPE and hand hygiene picture guides posted before they enter/exit the resident's room to serve as reminders for direct care staff


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Most Common Challenges of DONs During an Outbreak



CONFUSION



- **CAUSES**
- Inconsistent Instructions from different agencies who have different opinions on proper infection control
- **WHAT CAN YOU DO?**
- Clarify Instructions if inconsistent, and document who you spoke to
- **WHAT IS CONFUSING?**
- Cohorting – Have a plan that works for your facility
- Designated Space and Staff
- PPE use

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Cohorting Samples and Resident Door Signs for PPE Use

NO COVID-19 OUTBREAK

Baseline or surveillance testing with no covid-19 positive test from residents and HCP

- GREEN** No known exposure and no symptoms
- YELLOW** No known exposure, with symptoms, considered PUI
- BLUE** Admission/Re-admission who need Transmission Based Precautions
- RED** Covid-19 Positive (admitted or re-admitted with covid-19 not developed in the facility)



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COVID-19 OUTBREAK

Start of Outbreak

- GREEN** No known exposure and no symptoms the past 10 days
- BLUE** Admission/Re-admission who still need Transmission Based Precautions - no known exposure and without symptoms the past 10 days
- YELLOW** Known exposure with no symptoms the past 10 days
- ORANGE** Known exposure with symptoms the past 10 days
- RED** Covid-19 Positive

Upon Receipt of Results for First Round of Response Driven Testing and all other Succeeding Results for Response Driven Testing

- GREEN** Covid-19 Negative, with no known exposure and without symptoms the past 10 days
- BLUE** Re-admission who still need Transmission Based Precautions - no known exposure and without symptoms the past 10 days
- YELLOW** Covid-19 Negative, with no known exposure within the last 14 days, and had a symptom the past 10 days
- ORANGE** Covid-19 Negative, with known exposure within the last 14 days, and without symptoms the past 10 days
- DARK ORANGE** Covid-19 Negative, with known exposure within the last 14 days, and had a symptom the past 10 days
- RED** Covid-19 Positive



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Sample Designated Space

LEGENDS:

- Blue/White - Non-Care Rooms (e.g., Corridor, Lobby)
- Green - Patient Rooms
- Yellow - Exam Rooms
- Purple - Procedure Rooms
- Light Blue - Radiology Rooms
- Dark Blue - Diagnostic Rooms
- Red - Support Spaces
- Orange - Storage
- Light Green - Support Spaces
- Dark Green - Support Spaces
- White - Support Spaces
- Light Purple - Support Spaces
- Dark Purple - Support Spaces
- Light Yellow - Support Spaces
- Dark Yellow - Support Spaces
- Light Orange - Support Spaces
- Dark Orange - Support Spaces
- Light Green - Support Spaces
- Dark Green - Support Spaces
- White - Support Spaces
- Light Purple - Support Spaces
- Dark Purple - Support Spaces
- Light Yellow - Support Spaces
- Dark Yellow - Support Spaces
- Light Orange - Support Spaces
- Dark Orange - Support Spaces


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Q & A

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CALTCM
California Association of Long Term Care Administrators

October 8-10, 2020

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August 24 & 31

September 14, 21 & 28

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