

Agency for Health Care Administration

Hospital Emergency Rule 59AER20-1 Questions & Answers

To prevent the spread of COVID-19 at long-term care and residential facilities, the Agency for Health Care Administration issued Emergency Rule 59AER20-1. This rule requires COVID-19 testing by hospitals of all patients, regardless of symptoms, prior to discharge to long-term care facilities.

Hospitals are prohibited from discharging any patient who tests positive for COVID-19 to a long-term care facility until the resident has two consecutive negative test results separated by 24 hours unless the receiving facility has a dedicated COVID-19 wing, unit or building with dedicated staff to exclusively care for COVID-19 patients. Long-term care and residential facilities listed in the emergency rule include nursing homes, assisted living facilities, intermediate care facilities for the developmentally disabled and group home facilities.

To see the emergency rule, please visit the Agency's Hospital and Outpatient Services Unit webpage or https://ahca.myflorida.com/docs/Emergency_Rule_59AER20-1.pdf.

1. Qualifying Hospital Visit

Q 1.a. Is testing required for patients receiving services in outpatient diagnostic care departments of the hospital?

Answer: No, the requirement only applies for patients admitted to the hospital.

Q 1.b. Is testing required for patients seen only in the Emergency Department and not admitted to the hospital?

Answer: If the long-term care resident is sent to the ER for a situation unrelated to COVID-19 and the resident is not admitted to the hospital, they may be discharged/returned to the long-term care facility without testing. However, *if the hospital has the ability to perform a rapid test they should do so.*

Q 1.c. Is testing required for patients placed in observation?

Answer: Yes. Patients in observation should be tested within 48 hours prior to returning to a long-term care facility.

Q 1.d. Does the emergency rule apply to a patient discharged from a mental health facility? If the person was never positive, are 2 negatives still required?

Answer: The emergency rule only applies to any patient discharged to a long-term care facility from a hospital licensed under chapter 395, F.S. (general acute care hospital, long-term care hospital, psychiatric hospital, comprehensive medical rehabilitation hospital, etc.). It does not apply to patient's discharged from a residential mental health facility licensed under Chapter 394, F.S.

2. Discharges Requiring Tests

Q 2.a. Does the requirement to test prior to discharge apply to hospice inpatient facilities or other settings?

Answer: The requirement to test only applies to patients discharged to nursing homes, assisted living facilities, intermediate care facilities for the developmentally disabled and group home facilities licensed by the Agency for Persons with Disabilities. *However, hospitals are encouraged to test prior to transfers to another health care facility.*

Q 2.b. If a hospital discharges to a hospital-based skilled nursing unit operating under the same hospital's license (Chapter 395, F.S.), is testing required?

Answer: The emergency rule does not apply to patients transferred within a hospital (i.e. patients transferred from an acute care unit to a hospital-based skilled nursing unit or comprehensive medical rehabilitation unit operated under the hospital's license). It would apply if the patient is then transferred from the hospital-based skilled nursing unit or hospital comprehensive medical rehabilitation unit to a long-term care facility.

Q 2.c. Does the testing requirement also apply to patients discharged from a general acute hospital to a long-term acute care hospital or comprehensive medical rehabilitation hospital?

Answer: The emergency rule does not require testing of patients transferred from hospital to another hospital, such as a patient transferred from an acute care hospital to a comprehensive medical rehabilitation hospital. *However, hospitals are encouraged to test prior to transfers to another health care facility.*

Q 2.e. If the patient comes from a long-term care facility and is returning to that same facility, does the hospital need to test them prior to return or is this only for patients discharging to that level of care for the first time?

Answer: The testing requirement applies to both residents being returned to a long-term care facility as well as patients being transferred to a long-term care facility for the first time.

3. Testing

Q 3.a. When should the test be performed? If the hospital is testing all patients upon admission (or those with suspected COVID) and they test negative, does the hospital have to test them again

before discharge? If so, what is the recommended timeframe to test before discharge? What do we do about the delays in getting the test results back?

Answer: This testing requirement is expected to be a part of the discharge planning process, not admission. If the patient has never tested positive they should be tested within 48 hours prior to discharge. If a patient has tested positive, the individual must have 2 negative test results separated by 24 hours prior to discharge unless the receiving long-term care facility has a dedicated wing, unit or building with dedicated staff to accept COVID-19 positive residents. *If the hospital has the ability to perform a rapid test they should do so.*

Q 3.b. Does the requirement to test twice apply only to positive cases? In the case where the patient has tested negative and has not previously had symptoms do we still test twice?

Answer: A patient is only required to be tested twice prior to discharge if they have previously tested positive.

Q 3.c. If the testing isn't readily available in the hospital (with a quick turnaround time), can these tests be sent to the state lab?

Answer: If you have a hospitalized patient who needs to be tested for COVID-19 for either diagnostic purposes or for medical clearance prior to transfer to another facility, testing remains available from the Florida Department of Health (DOH), Bureau of Public Health Laboratories. DOH's current turnaround time is 24 to 48 hours. Hospitals should contact their County Health Department to coordinate submitting tests to the Bureau of Public Health Laboratories.

Q 3.d. *(New 6/1/20)* If the hospital is unable to obtain a test result within a 48-hour period, can a patient who has never tested positive and is not a PUI be discharged to a long-term care facility from the hospital if the hospital has initiated the COVID-19 test but is still awaiting the final result?

Answer: As long as there are no symptoms or reason to suspect the patient may be positive, they may be admitted to the long-term care facility into a single-person room or in a separate observation area so the resident can be monitored for evidence of COVID-19. Consistent with CDC guidance to nursing homes for admission of a resident with an unknown COVID-19 status, facility staff should wear an N95 or higher-level respirator (or facemask if a respirator is not available), eye protection (i.e., goggles or a disposable face shield that covers the front and sides of the face), gloves, and gown when caring for the resident while awaiting test results. The resident may be transferred out of the observation area to the main facility upon receipt of a negative test result if they remain afebrile and without symptoms.

4. COVID Discharge

Q 4.a. The emergency rule states that a hospital can discharge a patient to a long-term care facility if they have a dedicated wing, unit, or building and dedicated staff to accept COVID patients. How can hospitals obtain a list of these facilities?

Answer: The Agency is working with the Department of Health to identify facilities with COVID Designated areas and will share this information with hospitals.