

GREATER NEW YORK NEWS

Greater New York Health Care Facilities Association
FOR THE NEWS THAT MATTERS TO OUR MEMBERS



Statewide Health Care Facility Transformation Program III

Julia Balboni, GNYHCFA, breaks down the Statewide Health Care Facility Transformation Program III. Included is an explanation of available funds, applicant eligibility, evaluating criteria, and all application deadlines.

Infection Prevention & Control: Legionellosis

Arlette Drigpaul, MSN, RN, Infection Preventionist, explains the NYSDOH health advisory regarding an increase in Legionellosis cases, and encourages facilities stay vigilant in infection control practices.

Life Safety Review

John Kerney, Life Safety Consultant, explains the extension for Life Safety Deficiencies and CMS' decision to extend the waiver due to the COVID-19 pandemic causing construction bans in nursing homes.

October 7, 2021 Webinar Recap

Our latest webinar focused on current long-term care challenges, Recertification and Infection Control Surveys, Influenza Vaccination & COVID-19 booster doses, and a review of legislative/regulatory updates. Please find a summary of topics discussed on page 6-7.

GNYHCFA's Webinar Series is Back!

Save the date for our next webinar in December 2021! Please be sure to visit our website at www.gnyhcfa.org for additional information.

Statewide Health Care Facility Transformation Program III

Julia Balboni, GNYHCFA

Statewide Health Care Facility Transformation Program III

As part of the Statewide Health Care Facility Transformation Program III, **\$23,138,160** will be awarded to residential healthcare facilities in New York State. These financial awards will aim to support the modernization of facilities, development of alternative payment arrangements, and improvement of residential care through Information Technology (IT), with a focus on telehealth.

On September 30, 2021, the New York State Department of Health issued a Request for Application (RFA), opening the application period for all eligible licensed healthcare providers, *including skilled nursing facilities, adult care facilities, assisted living programs, and nursing homes.*

Examples of Eligible Expenses Pertaining to Capital Projects: planning or design of the acquisition, construction, demolition, replacement, major repair, or renovation of a fixed asset(s) including engineering, construction costs, renovation costs, asset acquisition, equipment costs, consultant fees, & other expenditures associated with a preparation of Certificate of Need (CON application) that are required for the proposed action or service **(CON approval is not needed at the time of application)*

Examples of Eligible Expenses for Non-Capital Projects: debt restructuring costs (i.e., costs to reduce, retire, or refinance long-term liability such as mortgage or bank loans, payments of debt services, professional fees, penalties, and interest), as well as start-up fees if directly related to the project of which funding is being sought

**Capital and Non-capital projects require different applications.*

Excluded Expenses: general operating expenses relating to day-to-day operations i.e., routine supplies or utilities, operating lease payments, equipment with a use of life of less than 3 years, on-going training or maintenance costs related to IT, employee salaries or benefits

Healthcare services developed as part of an eligible project should be consistent with DSRIP core principals, such as improving population health, patient outcomes, patient experience, as well as transition to a payment system that emphasizes quality over quantity. *Priority will be given to projects that create a patient-centered approach to achieve better quality and life outcomes for older adults.*

***Applications are due January 12th, 2022 by 4pm and must be submitted via the Grants Gateway.**

Step-by-step instructions on how to complete the application, along with administrative requirements, can be found beginning on slide 26 of the NYSDOH webinar slides (see attached). Additionally, the link to the recording of the webinar can be found [here](#).

***NOTE:** All **Not-for-Profit** applicants must **register and be prequalified** in Grants Gateway by the application due date of January 12, 2022. For more information on how to register and get prequalified, please click [here](#).

Below are suggestions for grant projects to consider:

- **Private rooms** (increasing single occupancy)
- **Childcare services**
- **Telehealth**
- **Technological improvement**
 - Upgrading systems, WiFi, record keeping
- **Ventilation systems**
 - Upgrading heating, AC, humidification, air pressure
- **Medical equipment upgrade**
- **Back-up energy solutions** (emergency weather)
- **UVC lighting**
- **Solar panels**
- **Wastewater monitoring** (sanitation improvement)
- **Varying level of care**
- **Post-acute and long-term** - Improve lounges and nourishment centers (to accommodate post-acute and long-term care)
- **Amenities spaces** (beauty, movie, shops)

Infection Prevention & Control

Arlette Drigpaul, MSN, RN, Infection Preventionist, GNYHCFA

Legionellosis

On October 8, 2021 New York State Department of Health (NYSDOH) released a health advisory alerting facilities of an increase in statewide Legionellosis cases. Per the DOH, factors likely contributing to the increase in cases include rainy, humid weather conditions; stagnant water in the plumbing and an increase use of cooling towers; seasonal and temperature-related increased usage of water features that may be improperly maintained (e.g., swimming pools, fountains, and car washes); and eased restrictions on mask wearing and congregating in public spaces.

Legionellosis occurs year-round but is more prevalent during the Summer months and early Fall. Legionellosis is a bacterial infection responsible for Legionnaires' Disease (progressive pneumonia with a 2–10-day incubation period) and Pontiac Fever (self-limiting flu-like illness without pneumonia with a 1–2-day incubation period). This bacterial infection rarely affects other sites. People contract *Legionella* by inhaling aerosolized water droplets containing the bacteria, or, less commonly, by aspiration of contaminated drinking water. *Legionella* is usually not transmitted from person to person.

Legionnaires' Disease (LD) is not clinically distinguishable from other causes of pneumonia, such as SARS-CoV-2 virus, from clinical or radiologic grounds. LD and Covid-19 both cause fever, fatigue, and respiratory illnesses (including pneumonia). It is recommended to test for *Legionella* infection in residents suspected with pneumonia, especially if testing for Covid-19 has been negative. Diagnostic work up for *Legionella* should include chest radiograph, respiratory cultures for *Legionella* spp. (requires special laboratory techniques; routine sputum culture will not grow *Legionella* spp.), and *Legionella* urinary antigen test (UAT). When sending a specimen, alert the lab that *Legionella* is suspected.

When isolates are positive for *Legionella* spp., facilities within NYC should notify NYCDOHMH Public Health Laboratory and facilities located outside of NYC should notify NYSDOH Wadsworth Laboratories. Also, notify your local health department within 24 hours of diagnosis.

Legionella prefers aquatic environments, with ideal growth at 77-115°F. Cases have been linked to potable water systems, cooling towers, showers/faucets, hot tubs and whirlpool spas, respiratory therapy equipment, and room-air humidifiers. The key to preventing Legionnaires' Disease is maintenance of the water systems in which *Legionella* may grow. In accordance with Section 2801 of the Public Health Law, 10 NYCRR Subpart 4-2, nursing homes must conduct routine *Legionella* culture sampling and analysis beginning on or before December 1, 2016 at intervals not to exceed 90 days in the first year and annually thereafter. The environmental assessment must be updated annually or under certain conditions including completion of construction or repair activities that may affect the potable water system. The Environmental Assessment Form (EAF) is posted on the Health Commerce System (HCS) and can also be found on DOH's website [here](#). The facility must use an approved NYS lab for testing, keep all assessments and testing records for a minimum of 3 years, and report any positive result to NYSDOH. Recommended sampling sites should include but not be limited to one water sample of the inlet of the heating system(s), one water sample of the outlet of the heating system(s), one sample of the inlet of the cold-water supply, and floors that housed ill residents as well as each floor. At least three (3) samples should be collected from each floor as follows – tap closest to first delivery of hot water from the riser; one sample from the middle of the

system; and one sample from the last outlet before the water returns to the piping that conveys water back to the heater. If a specimen results positive for *Legionella*, samples for culture should be monitored once every two (2) weeks for three (3) months, and if negative, monitor samples once monthly for three (3) months or as directed by State and/or Local Health Departments.

If you need any additional information, do not hesitate to contact the Association.

Resources:

CDC (2/24/2020). [What Clinicians Need to Know About Legionnaires' Disease.](#)

NYSDOH. 10 NYCRR Part 4 – Protection Against Legionella.

NYSDOH (7/16/2021). [Health Advisory: Legionellosis.](#)

NYSDOH (10/8/2021). [Health Advisory: Statewide Increase in Legionellosis Cases.](#)

American Society for Healthcare Engineering, Regulatory Advisories, “Waterborne Pathogens - Compliance with JCAHO Requirements”, December 20, 2000.

American Society of Heating, Refrigerating and Air-Conditioning Engineers, [“Minimizing the Risk of Legionellosis Associated with Building Water Systems”](#), Guideline 12-2000.

Life Safety Review

John Kerney, Life Safety Consultant, GNYHCFA

Extension for Life Safety Deficiencies

This is due to the change in Life Safety Code from 2016, when CMS adopted a no waiver approved for life safety items and required facilities to comply with 2012 LSC NFPA 101A to be in compliance.

Buildings that do not meet these requirements were forced to do what is known as NFPA 101A (2013) Fire Safety Equivalency Standard (FSES). The NFPA 101A has always been an option for compliance and is a score-based system, which determines that the building is equivalent to the NFPA 101 standard, even though it has items that do not meet the regulation. When this occurred, some buildings could not attain the required score and were given Limited Time Waivers to complete construction/repairs to attain a passing grade. This was typically Health Related Facilities, which became Skilled Nursing Facilities back in 1987. The limited time waivers were for three years and are now expiring. CMS has decided to extend the waiver due to the COVID-19 pandemic causing construction bans in nursing homes, which were delayed from completing required items. The FSES can be used by any building that has a K-tag, however, it must be approved by the state and federally. It must also be updated annually and accepted. These are typically done for major structural items such as non-fire rated construction or distance to exit in older buildings.

For more information regarding Life Safety Deficiencies, do not hesitate to reach out to the Association.

October Webinar Recap

October 7, 2021

On October 7th, 2021, Greater New York Health Care Facilities Association put forward a webinar titled “LTC New Horizons...New Governor.” Participants were provided with the latest legislative updates, relevant information relating to the nursing home industry and the change in New York State Leadership.

Michael Balboni, Executive Director, GNYHCFA, opened the webinar by speaking about several legislative updates impacting the long-term care industry. He particularly touched on the New York State Healthcare vaccine mandates, staffing related legislation and 70/40/5. Mr. Balboni encouraged participants to remain hopeful and with the change in New York State leadership, the industry can have a better working relationship with the State Department of Health.

Lourdes Martinez Esq., Partner, and Eve Koopersmith, Esq., Counsel of Garfunkel Wild, P.C. began their presentation discussing the many updates of the New York State Healthcare vaccine mandate. They shared that CMS is creating emergency regulations to enforce COVID-19 vaccination to all nursing homes receiving Medicare and Medicaid. Ms. Martinez and Ms. Koopersmith went on to discuss the most recent Executive Order, Number 4, issued in response to the vaccine mandate deadline and the potential loss of personnel. They addressed other legislative impacts, which will be felt soon such as nursing home spending on resident care, transparency in ownership and many new disclosure requirements. *They specifically touched on the following:*

- PHL § 2828: 70/40/5 – As part of the NYS Budget legislation, beginning January 2022, NYS residential health care facilities will be required to spend 70% of their revenue on direct resident care, with 40% of revenue focused on resident-facing staffing (“Minimum Spending Requirements”).
 - If a facility’s total operating revenues exceed its total operation and non-operating expenses by more than 5%; or
 - If the facility fails to reach its Minimum Spending Requirements for resident-facing staffing or direct resident care,
 - The facility must return, to the state, the excess revenue or the difference between the Minimum Spending Requirements and the actual amount of spending on resident facing staffing or direct care staffing.
- DISCLOSURES, effective 10/1/21:
 - Facilities must inform residents and their families regarding the availability of facility compliance information as a part of the admissions process. The disclosure must be in a separate document, in no less than and include:
 - How to look up complaints, citations, inspections, enforcement actions and penalties taken against the facility;
 - The web address for the NYS Nursing Home Profiles website maintained by the NYS DOH; and
 - the web address for the Nursing Home Compare website maintained by the U.S. Department of Health and Human Services
- DISCLOSURES, effective 10/21/21:
 - Any common or familial ownership of any corporation, other entity or individual providing services to the operator of the facility
 - Disclose to residents & prospective residents in residency agreements.
 - Disclose to DOH, residents, resident representatives, staff and their representative, and the state office of the LTCO within 90 days of entering
- Letter of intent or other contractual agreement

- The sale mortgaging encumbrance, or other disposition, of the real property of the facility, 90 days prior to executing contract
- The consulting operations, staffing agency or other entity to be involved in the operations of the facility, within 5 days of executing
- An application for establishment submitted by an existing nursing home
 - Residents and their representatives, staff and their representatives, within 30 days of DOH's acknowledgment of the application
 - Immediate notice required when notified that the application is for consideration by PHHPC
- Maximum rates to be charged for residency and services, including detailed rates for each non-governmental payer source, disclosure is to be made annually no later than April 1st on a publicly accessible website.
- All owners, disclosure to be made to the public and DOH and must be made on a publicly accessible website and submitted to DOH (for posting on their website). Information must be updated within 30 days of any change in ownership.
- The name and business address of a landlord of the facility's premises, must be posted on publicly accessible website
- A summary of all contracts for provision of goods or services for which the facility pays with any portion of Medicaid or Medicare funds or other agreements entered by the nursing home, statute indicates the public must be informed, presumed by posting on a publicly accessible website
- Additional disclosures will be required on CON applications

Also, Ms. Martinez and Ms. Koopersmith spoke about the new nursing home minimum staffing standards statute (effective January 1, 2022) and at minimum, nursing homes must provide 3.5 hours of nursing care per resident per day. Of this, 2.2 hours must be provided by a certified nurse's aide (CNA) and 1.1 hours must be provided by a licensed practical nurse (LPN).

Mary Gracey-White, RN, BSN, QCP, Director of Regulatory Compliance, GNYHCFA, presented about recent citations that the Association has been made aware of, as well as tips on how to avoid receiving specific citations.

- **F880** Infection Control - Mrs. Gracey-White noted that surveyors will cite a facility due to lack of attention to details, like tubing touching the floor or if non-critical items (e.g., blood pressure cuffs) are not cleaned after each use.
- **F711** Physician Visits - She suggested facilities review medications and ensure that consults are up to date.
- **F759** Medications - Other than avoiding medication errors, it's suggested that you ensure PRN's that are unused are discontinued and that MD signatures are on all orders.
- **F679** Activities - It's suggested to ensure recreation activities are geared to meet the needs of all residents and not limited to the day shift.
- **F609** Abuse reporting in a timely manner, facilities must report within 2 hours of an alleged violation if it involves abuse or results in serious bodily injury or 24 hours if the violation does not involve abuse or a serious bodily injury.

As winter soon approaches, she reminded us that facilities should ensure they have vaccination consents on file. It is required to report COVID-19 vaccine administration on CIR / NYSISIS, and reporting of flu vaccinations is optional at this time.

Thank you to all attendees! Should you be interested in learning more about our webinar, we will be happy to provide presentation slides.