

STATE OF NEW YORK

8572

2021-2022 Regular Sessions

IN ASSEMBLY

December 13, 2021

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to personal caregiving visitors for general hospital patients

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2801-h of the public health law, as amended by
2 chapter 108 of the laws of 2021, is amended to read as follows:

3 § 2801-h. Personal caregiving visitors for nursing home residents and
4 general hospital patients during public health emergencies. 1. As used
5 in this section, the following terms have the following meanings:

6 (a) "personal caregiving visitor" means a family member, close friend,
7 or legal guardian of a resident or patient designated by the resident or
8 patient or the [~~resident's~~] lawful representative of such resident or
9 patient to assist with personal caregiving or compassionate caregiving
10 for the resident or patient;

11 (b) "personal caregiving" means care and support of a resident or
12 patient by a personal caregiving visitor that is provided to benefit
13 [~~such resident's~~] the mental, physical, or social well-being of such
14 resident or patient;

15 (c) "compassionate caregiving" means personal caregiving that is
16 provided in anticipation of the end of a resident's or patient's life or
17 in the instance of significant mental, physical, or social decline or
18 crisis of a resident or patient;

19 (d) "resident" means a resident of a nursing home; in relation to a
20 personal caregiving visitor, "resident" means the resident to whom the
21 personal caregiving visitor has been designated to assist with personal
22 caregiving or compassionate caregiving; [~~and~~]

23 (e) "patient" means a patient of a general hospital; in relation to a
24 personal caregiving visitor, "patient" means the patient to whom the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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personal caregiving visitor has been designated to assist with personal caregiving or compassionate caregiving; and

(f) "visit" includes assisting with personal caregiving or compassionate caregiving for a resident or patient.

2. During a public health emergency declared under section twenty-four or section twenty-eight of the executive law personal caregiving visitors may visit residents of nursing homes or patients of general hospitals, in compliance with federal law and regulations and state regulations made under this section. Nursing homes and general hospitals shall admit any personal caregiving visitor who is in compliance with applicable requirements under this section.

3. The commissioner shall make regulations under this section which shall:

(a) require nursing homes and general hospitals to allow personal caregiving visitors to visit residents or patients subject to this section;

(b) set forth procedures for the designation of personal caregiving visitors by residents or patients or ~~[resident's]~~ the lawful representatives of such residents or patients, which: (i) shall include documentation of each designated personal caregiving visitor in the facility records; (ii) shall include procedures to ensure that the preferences of the resident or patient regarding the designation of a personal caregiving visitor are respected; and (iii) may include, in appropriate circumstances, requiring a health or mental health professional licensed or certified under the education law to state that the personal caregiving will substantially benefit the ~~[resident's]~~ mental, physical, or social well-being of such resident or patient. A nursing home or general hospital shall not require that the health professional be affiliated with such nursing home or general hospital;

(c) set forth procedures for changing a personal caregiving visitor designation;

(d) provide that a resident or patient shall be entitled to designate at least two personal caregiving visitors;

(e) provide that personal caregiving visitors shall be exempt from prohibitions on visiting residents or patients at nursing homes and general hospitals, subject to the limitations and requirements of this section;

(f) set forth the circumstances under which visiting by personal caregiving visitors may be temporarily limited or suspended at a nursing home or general hospital to protect the health, safety and welfare of residents and patients, including, but not limited to, local infection rates, temporary inadequate staff capacity, or an acute emergency situation;

(g) require, at a minimum, that all personal caregiving visitors follow safety protocols which may include, but need not be limited to:

(i) testing for communicable diseases;

(ii) checking body temperature upon entry into the nursing home or general hospital;

(iii) health screenings upon entry into the nursing home or general hospital;

(iv) appropriate use of personal protective equipment;

(v) social distancing (except as necessary for personal caregiving by the personal caregiving visitor for the resident or patient); and

(vi) any other requirement the department deems appropriate;

(h) set forth standards for frequency and duration of visits by personal caregiving visitors at nursing homes or general hospitals;

(i) set forth standards for limiting the total number of personal caregiving visitors for a resident or patient and/or limiting the total number of personal caregiving visitors allowed to visit a nursing home or general hospital at any one time based on the circumstances of the residents or patients and the nursing home or general hospital;

(j) require personal caregiving and compassionate caregiving to be documented in the resident's or patient's individualized comprehensive plan of care; and

(k) make appropriate provisions for compassionate caregiving.

4. The department shall post the requirements consistent with regulations, on its website, including any requirements as to time periods and region.

5. This section does not require the medical assistance program to cover personal caregiving or compassionate caregiving and such caregiving shall not be reimbursed under the medical assistance program.

6. This section does not relieve any nursing home, or nursing home operator or administrator, of any obligation or responsibility imposed by any other applicable law or regulation.

7. Nothing in this section shall be construed to limit access by any visitor to a facility that would otherwise be permitted under federal or state law or regulation.

§ 2. This act shall take effect on the forty-fifth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.