STATE OF NEW YORK

11075

IN ASSEMBLY

October 7, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Bronson, Gottfried, Lupardo, McDonald) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to personal care visitors for residents of nursing homes and residential health care facilities

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

Section 1. The public health law is amended by adding a new section 2801-h to read as follows:

§ 2801-h. Personal care visitors for residents of nursing homes and residential health care facilities. 1. As used in this section, the term:

(a) "resident" means a person who is a resident of a nursing home or residential health care facility;

(b) "personal care visitor" means a family member or legal guardian of a resident designated by the resident or legal representative of the resident to provide personal care for such resident;

(c) "personal care" means care and support provided by a family member or legal guardian that is important to the mental, physical, or social well-being for such resident;

(d) "nursing home" shall have the same meaning as set forth in subdivision two of section twenty-eight hundred one of this article;

(e) "residential health care facility" shall have the same meaning as set forth in subdivision three of section twenty-eight hundred one of this article; and

(f) "legal representative" means a legal guardian or a legally appointed substitute decision-maker who is authorized to act on behalf of a resident.

2. The department is authorized and directed to develop rules, regulations and guidelines authorizing and regulating the visitation of personal care visitors at nursing homes and residential health care facilities. Such rules, regulations and guidelines shall:

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

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(a) require nursing homes and residential health care facilities to allow visitation by personal care visitors subject to the provisions of this section;

(b) set forth procedures for the designation of personal care visitors by residents and legal representatives including requiring a medical or mental health professional to make a determination that such personal care visitor is necessary. Such determination may be made by a medical or mental health professional not affiliated with a nursing home or residential health care facility;

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

(d) require that personal care visitors waive liability against a nursing home or residential health care facility for exposure to COVID-19;

(e) provide that a resident may designate no more than one personal care visitor;

(f) provide that personal care visitors shall be exempt from any prohibitions on visitation at a nursing home or residential health care facility, subject to the limitations and requirements set forth in this subdivision;

(g) set forth the circumstances under which visitation by personal care visitors at nursing homes and residential health care facilities may be limited, suspended or terminated including, but not limited to, local infection rates and health care capacity;

(h) require, at a minimum, that all personal care visitors follow safety protocols required for nursing homes and residential health care facilities' staff, including, but not limited to:

(i) testing for communicable diseases;

(ii) checking body temperature;

(iii) health screenings;

(iv) the appropriate use of personal protection equipment;

(v) social distancing; and

(vi) any other requirement the department deems appropriate;

(i) set forth frequency of visitation and duration of visits by personal care visitors at nursing homes and residential health care facilities; and

(j) set forth the total number of personal care visitors allowed to visit a nursing home or residential health care facility at any one time.

§ 2. The public health law is amended by adding a new section 2801-i to read as follows:

§ 2801-i. Compassionate care visitation for residents of nursing homes and residential health care facilities. 1. As used in this section, the term:

(a) "resident" means a person who is a resident of a nursing home or residential health care facility;

(b) "compassionate care visitor" means a family member or legal guardian of a resident designated by the resident or legal representative of the resident to provide compassionate care for such resident;

(c) "compassionate care" means short-term care and support provided by a family member or legal guardian that is important to the mental, physical, or social well-being for such resident during critical situations such as, but not limited to, at the end of such resident's life or in the instance of significant mental or social decline of such resident;

(d) "nursing home" shall have the same meaning as set forth in subdivision two of section twenty-eight hundred one of this article;

(e) "residential health care facility" shall have the same meaning as set forth in subdivision three of section twenty-eight hundred one of this article; and

(f) "legal representative" means a legal guardian or a legally appointed substitute decision-maker who is authorized to act on behalf of a resident.

2. The department is authorized and directed to develop rules, regulations, and guidelines authorizing and regulating the short-term visitation of compassionate care visitors at nursing homes and residential health care facilities during, but not limited to, the end of a resident's life, in the instance of significant mental or social decline of such resident or when exigent circumstances exist regarding such resident. Such rules, regulations and guidelines shall require, at a minimum, that all compassionate care visitors follow safety protocols required for nursing homes and residential health care facilities' staff, including, but not limited to:

(a) testing for communicable diseases;

(b) checking body temperature;

(c) health screenings;

(d) the appropriate use of personal protection equipment;

(e) social distancing; and

(f) any other requirement the department deems appropriate.

3. All compassionate care visitors shall be restricted to one room to provide such compassionate care to a resident.

§ 3. This act shall take effect on the one hundred twentieth 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.