

# STATE OF NEW YORK

8958

## IN SENATE

September 2, 2020

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

1 Section 1. The public health law is amended by adding a new section  
2 2801-h to read as follows:

3 § 2801-h. Personal care visitors for residents of nursing homes and  
4 residential health care facilities. 1. As used in this section, the  
5 term:

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

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

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

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

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

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

22 2. The department is authorized and directed to develop rules, regu-  
23 lations and guidelines authorizing and regulating the visitation of  
24 personal care visitors at nursing homes and residential health care  
25 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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1 (a) require nursing homes and residential health care facilities to  
2 allow visitation by personal care visitors subject to the provisions of  
3 this section;

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

10 (c) set forth procedures for changing a personal care visitor desig-  
11 nation;

12 (d) require that personal care visitors waive liability against a  
13 nursing home or residential health care facility for exposure to COVID-  
14 19;

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

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

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

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

28 (i) testing for communicable diseases;

29 (ii) checking body temperature;

30 (iii) health screenings;

31 (iv) the appropriate use of personal protection equipment;

32 (v) social distancing; and

33 (vi) any other requirement the department deems appropriate;

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

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

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

42 § 2801-i. Compassionate care visitation for residents of nursing homes  
43 and residential health care facilities. 1. As used in this section, the  
44 term:

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

47 (b) "compassionate care visitor" means a family member or legal guard-  
48 ian of a resident designated by the resident or legal representative of  
49 the resident to provide compassionate care for such resident;

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

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

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

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

7 2. The department is authorized and directed to develop rules, regu-  
8 lations, and guidelines authorizing and regulating the short-term visi-  
9 tation of compassionate care visitors at nursing homes and residential  
10 health care facilities during, but not limited to, the end of a resi-  
11 dent's life, in the instance of significant mental or social decline of  
12 such resident or when exigent circumstances exist regarding such resi-  
13 dent. Such rules, regulations and guidelines shall require, at a mini-  
14 mum, that all compassionate care visitors follow safety protocols  
15 required for nursing homes and residential health care facilities'  
16 staff, including, but not limited to:

17 (a) testing for communicable diseases;

18 (b) checking body temperature;

19 (c) health screenings;

20 (d) the appropriate use of personal protection equipment;

21 (e) social distancing; and

22 (f) any other requirement the department deems appropriate.

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

25 § 3. This act shall take effect on the one hundred twentieth day after  
26 it shall have become a law. Effective immediately, the addition, amend-  
27 ment and/or repeal of any rule or regulation necessary for the implemen-  
28 tation of this act on its effective date are authorized to be made and  
29 completed on or before such date.