

# STATE OF NEW YORK

9036

## IN SENATE

October 7, 2020

Introduced by Sen. GRIFFO -- 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 providing a patient of a residential health care facility essential caregiver visitation during the COVID-19 state disaster emergency

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. Essential caregiver visitation during COVID-19. 1. The  
4 following words or phrases, as used in this section, shall have the  
5 following meanings, unless the context otherwise requires:

6 (a) "Resident" shall mean a patient residing at a residential health  
7 care facility.

8 (b) "Essential caregiver" shall mean an individual or individuals  
9 designated by a resident as their primary caregiver to aid and provide  
10 care for such resident.

11 (c) "Primary caregiver" shall mean an individual or individuals who  
12 regularly visited, prior to COVID-19, a resident to aid and provide care  
13 to such resident.

14 (d) "Regularly visit" shall mean an individual or individuals who  
15 visits a resident of residential health care facility at least twice a  
16 week. If more than one individual is providing aid and care to a resi-  
17 dent, such visitation days may be split among the individuals.

18 (e) "The novel coronavirus pandemic (COVID-19)" shall refer to the  
19 period of the state of emergency declared by executive order two hundred  
20 two on March seventh, two thousand twenty in response to the outbreak of  
21 the novel coronavirus.

22 (f) "Phase zero" shall mean a residential health care facility with a  
23 currently active outbreak of the novel coronavirus.

24 (g) "Phase one" shall mean a residential health care facility who  
25 never had an outbreak of the novel coronavirus or who has concluded an  
26 outbreak of the novel coronavirus and fourteen days have passed since  
27 the region such facility is located has moved into phase one of reopen-

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

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ing pursuant to the New York forward initiative as a response to COVID-19.

(h) "Phase two" shall mean a residential health care facility who never had an outbreak of the novel coronavirus or who has concluded an outbreak of the novel coronavirus and fourteen days have passed since the region such facility is located has moved into phase two of reopening pursuant to the New York forward initiative as a response to COVID-19.

(i) "Phase three" shall mean a residential health care facility who never had an outbreak of the novel coronavirus or who has concluded an outbreak of the novel coronavirus and fourteen days have passed since the region such facility is located has moved into phase three of reopening pursuant to the New York forward initiative as a response to COVID-19.

2. A resident may receive essential caregiver visitation during COVID-19, unless such resident:

(i) is in a fourteen-day quarantine period for testing positive for the novel coronavirus and has not yet met the criteria for the discontinuation of the isolation; or

(ii) the resident is symptomatic with symptoms related to the novel coronavirus.

3. Visitation by an essential caregiver during COVID-19 shall be utilized to provide a resident with care in the same manner as prior to COVID-19. Such care shall include, but not be limited to assisting a resident with feeding, hygiene, mobility, dressing, emotional support, medication, communicating with the residential health care facility staff regarding the needs of such resident, reporting any suspected abuse or neglect on behalf of such resident or requesting additional care or a change in the current care plan if necessary.

4. The residential health care facility's administrative director in consultation with the director of nursing, director of social services and any other necessary facility staff, shall develop policies and establish procedures for how to designate and utilize essential caregivers during COVID-19.

5. A resident shall consult with the necessary residential health care facility staff to determine and designate a primary caregiver to be such resident's essential caregiver. Such determination shall take into consideration:

(a) who the resident desires as a primary caregiver;

(b) the resident's unique situation; and

(c) the past involvement of the potential primary caregiver with such resident.

6. The residential health care facility shall work with a designated essential caregiver to establish a schedule to accommodate the essential caregiver's schedule and meet the needs of the resident. Such schedule shall take into consideration the number of essential caregivers in the residential health care facility at the same time and which phase the residential health care facility has obtained. A residential health care facility in phase zero shall allow an essential caregiver to schedule one visit per week not to exceed a total of two hours per week. A residential health care facility in phase one or phase two shall allow an essential caregiver to schedule up to two visits per week not to exceed a total of four hours per week. A residential health care facility in phase three shall allow scheduling of an essential caregiver under such facilities regular procedures for visitation. Residential health care

1 facility may establish time limits as needed to keep residents of such  
2 facility safe.

3 7. Residential health care facilities shall create and implement  
4 procedures to ensure essential caregiving visits are conducted as safely  
5 as possible and shall include but not be limited to infection control  
6 practices, hand washing procedures, and utilizing personal protective  
7 equipment.

8 8. A resident shall have the right to designate a secondary caregiver  
9 and an alternative caregiver. The secondary caregiver shall provide  
10 essential caregiving in the event the primary caregiver is unable to  
11 provide their services to such resident. The alternative caregiver shall  
12 be able to provide care to a resident if the primary caregiver and the  
13 secondary caregiver are unable to provide their services to such resi-  
14 dent. The primary caregiver shall provide notice to the residential  
15 health care facility either by telephone or in writing, when they are  
16 unable to attend a scheduled visit with a resident and will be designat-  
17 ing either the secondary caregiver or the alternative caregiver to  
18 provide care to such resident in their absence.

19 § 2. This act shall take effect immediately.