

# STATE OF NEW YORK

1052--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 7, 2021

Introduced by M. of A. BRONSON, GOTTFRIED, LUPARDO, SEAWRIGHT, STERN, FAHY, CLARK, McMAHON, NOLAN, JACOBSON, SIMON, MEEKS, WOERNER, JONES, ENGLEBRIGHT, GRIFFIN, LUNSFORD, SANTABARBARA -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the social services law, in relation to personal and compassionate caregiving visitors for residents of nursing homes

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 caregiving and compassionate caregiving visitors to  
4 nursing home residents during declared local or state health emergen-  
5 cies. 1. As used in this section, the following terms have the follow-  
6 ing meanings:

7 (a) "personal caregiving visitor" means a family member, close friend,  
8 or legal guardian of a resident designated by such resident or such  
9 resident's lawful representative to provide personal caregiving for such  
10 resident, including a compassionate caregiving visitor;

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

14 (c) "compassionate caregiving visitor" means a personal caregiving  
15 visitor providing compassionate caregiving to a resident;

16 (d) "compassionate caregiving" means personal caregiving that is  
17 provided in anticipation of the end of a resident's life or in the  
18 instance of significant mental or social decline or crisis of a resi-  
19 dent;

20 (e) "resident" means a resident of a nursing home; in relation to a  
21 personal caregiving visitor, "resident" means the resident to whom the  
22 personal caregiving visitor has been designated to provide personal  
23 caregiving; and

24 (f) "visit" includes providing personal caregiving to a resident.

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

1 2. Personal caregiving visitors may visit residents of nursing homes,  
2 subject to this section. The commissioner shall make regulations under  
3 this section which shall:

4 (a) require nursing homes to allow personal caregiving visitors to  
5 visit residents subject to this section;

6 (b) set forth procedures for the designation of personal caregiving  
7 visitors by residents or resident's lawful representatives, which may  
8 include in appropriate circumstances requiring a physical or mental  
9 health professional to state that the personal caregiving will substan-  
10 tially benefit the resident's mental, physical, or social well-being; an  
11 nursing home shall not require that the health professional is affil-  
12 iated with such nursing home;

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

15 (d) provide that a resident shall not be entitled to designate more  
16 than two personal caregiving visitors;

17 (e) provide that personal caregiving visitors shall be exempt from  
18 prohibitions on visiting residents at nursing homes, subject to the  
19 limitations and requirements set forth by this subdivision;

20 (f) set forth the circumstances under which visiting by personal care-  
21 giving visitors may be temporarily limited or suspended at a nursing  
22 home, including, but not limited to, local infection rates, temporary  
23 inadequate staff capacity, or an acute emergency situation;

24 (g) require, at a minimum, that all personal caregiving visitors  
25 follow safety protocols required for nursing home staff, including, but  
26 not limited to:

27 (i) testing for communicable diseases;

28 (ii) checking body temperature;

29 (iii) health screenings;

30 (iv) appropriate use of personal protection equipment;

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

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

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

36 (i) set forth standards for limiting the total number of personal  
37 caregiving visitors allowed to visit a nursing home at any one time;  
38 and

39 (j) make appropriate provisions for compassionate caregiving and  
40 compassionate caregiving visitors.

41 § 2. The social services law is amended by adding a new section 461-u  
42 to read as follows:

43 § 461-u. Personal caregiving and compassionate caregiving visitors for  
44 residents of adult care facilities during declared local or state health  
45 emergencies. 1. As used in this section, the following terms have the  
46 following meanings:

47 (a) "personal caregiving visitor" means a family member, close friend,  
48 or legal guardian of a resident designated by such resident or such  
49 resident's lawful representative to provide personal caregiving for such  
50 resident, including a compassionate caregiving visitor;

51 (b) "personal caregiving" means care and support of a resident by a  
52 personal caregiving visitor that is provided to benefit such resident's  
53 mental, physical, or social well-being.

54 (c) "compassionate caregiving visitor" means a personal caregiving  
55 visitor providing compassionate caregiving to a resident;

1 (d) "compassionate caregiving" means personal caregiving that is  
2 provided in anticipation of the end of a resident's life or in the  
3 instance of significant mental or social decline or crisis of a resi-  
4 dent;

5 (e) "resident" means a resident of an adult care facility; in relation  
6 to a personal caregiving visitor, "resident" means the resident to whom  
7 a personal caregiving visitor has been designated to provide personal  
8 caregiving; and

9 (f) "visit" includes providing personal caregiving to a resident.

10 2. Personal caregiving visitors may visit residents of adult care  
11 facilities, subject to this section. The commissioner of the office of  
12 temporary and disability assistance shall make regulations under this  
13 section which shall:

14 (a) require adult care facilities to allow personal caregiving visi-  
15 tors to visit residents subject to this section;

16 (b) set forth procedures for the designation of personal caregiving  
17 visitors by residents or resident's lawful representatives, which may  
18 include in appropriate circumstances requiring a physical or mental  
19 health professional to state that the personal caregiving will substan-  
20 tially benefit the resident's mental, physical, or social well-being; an  
21 adult care facility shall not require that a health professional is  
22 affiliated with such adult care facility;

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

25 (d) provide that a resident shall not be entitled to designate more  
26 than two personal caregiving visitors;

27 (e) provide that personal caregiving visitors shall be exempt from  
28 prohibitions on visiting residents at adult care facilities, subject to  
29 the limitations and requirements in this subdivision;

30 (f) set forth the circumstances under which visiting by personal care-  
31 giving visitors may be temporarily limited or suspended at an adult care  
32 facility, including, but not limited to, local infection rates, tempo-  
33 rary inadequate staff capacity, or an acute emergency situation;

34 (g) require, at a minimum, that all personal caregiving visitors  
35 follow safety protocols required for adult care facility staff, includ-  
36 ing, but not limited to:

37 (i) testing for communicable diseases;

38 (ii) checking body temperature;

39 (iii) health screenings;

40 (iv) appropriate use of personal protection equipment;

41 (v) social distancing (except as necessary for personal caregiving by  
42 the personal caregiving visitor for a resident); and

43 (vi) any other requirement the office of temporary and disability  
44 assistance deems appropriate;

45 (h) set forth standards for frequency and duration of visits by  
46 personal caregiving visitors at adult care facilities;

47 (i) set forth standards for limiting the total number of personal  
48 caregiving visitors allowed to visit an adult care facility at any one  
49 time; and

50 (j) make appropriate provisions for compassionate caregiving and  
51 compassionate caregiving visitors.

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