STATE OF NEW YORK

3879

2021-2022 Regular Sessions

IN SENATE

February 1, 2021

Introduced by Sens. GRIFFO, BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Health

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:

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

§ 2801-h. Essential caregiver visitation during COVID-19. 1. The following words or phrases, as used in this section, shall have the following meanings, unless the context otherwise requires:

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

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

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

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

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

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

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

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(g) "Phase one" 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 one of reopening 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 facility may establish time limits as needed to keep residents of such facility safe.

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

8. A resident shall have the right to designate a secondary caregiver and an alternative caregiver. The secondary caregiver shall provide essential caregiving in the event the primary caregiver is unable to provide their services to such resident. The alternative caregiver shall be able to provide care to a resident if the primary caregiver and the secondary caregiver are unable to provide their services to such resident. The primary caregiver shall provide notice to the residential health care facility either by telephone or in writing, when they are unable to attend a scheduled visit with a resident and will be designating either the secondary caregiver or the alternative caregiver to provide care to such resident in their absence.

§ 2. This act shall take effect immediately.