

STATE OF NEW YORK

1052--B

Cal. No. 85

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, WALLACE, BARRETT, STECK, BARRON, NORRIS -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

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

§ 2801-h. Personal caregiving and compassionate caregiving visitors to nursing home residents during declared local or state health emergencies. 1. As used in this section, the following terms have the following meanings:

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

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

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

(d) "compassionate caregiving" means personal caregiving that is provided in anticipation of the end of a resident's life or in the

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

LBD04858-10-1

1 instance of significant mental or social decline or crisis of a resi-
2 dent;

3 (e) "resident" means a resident of a nursing home; in relation to a
4 personal caregiving visitor, "resident" means the resident to whom the
5 personal caregiving visitor has been designated to provide personal
6 caregiving; and

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

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

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

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

20 (c) set forth procedures for changing a personal caregiving visitor
21 designation;

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

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

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

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

34 (i) testing for communicable diseases;

35 (ii) checking body temperature;

36 (iii) health screenings;

37 (iv) appropriate use of personal protection equipment;

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

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

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

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

46 (j) make appropriate provisions for compassionate caregiving and
47 compassionate caregiving visitors.

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

50 § 461-u. Personal caregiving and compassionate caregiving visitors for
51 residents of adult care facilities during declared local or state health
52 emergencies. 1. As used in this section, the following terms have the
53 following meanings:

54 (a) "personal caregiving visitor" means a family member, close friend,
55 or legal guardian of a resident designated by such resident or such

1 resident's lawful representative to provide personal caregiving for such
2 resident, including a compassionate caregiving visitor;

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

6 (c) "compassionate caregiving visitor" means a personal caregiving
7 visitor providing compassionate caregiving to a resident;

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

12 (e) "resident" means a resident of an adult care facility; in relation
13 to a personal caregiving visitor, "resident" means the resident to whom
14 a personal caregiving visitor has been designated to provide personal
15 caregiving; and

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

17 2. Personal caregiving visitors may visit residents of adult care
18 facilities, subject to this section. The commissioner of the department
19 responsible for the licensure or certification for each type of adult
20 care facility shall make regulations for such type under this section
21 which shall:

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

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

31 (c) set forth procedures for changing a personal caregiving visitor
32 designation;

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

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

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

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

45 (i) testing for communicable diseases;

46 (ii) checking body temperature;

47 (iii) health screenings;

48 (iv) appropriate use of personal protection equipment;

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

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

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

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

4 (j) make appropriate provisions for compassionate caregiving and
5 compassionate caregiving visitors.

6 § 3. This act shall take effect on the forty-fifth day after it shall
7 have become a law. Effective immediately, the addition, amendment and/or
8 repeal of any rule or regulation necessary for the implementation of
9 this act on its effective date are authorized to be made and completed
10 on or before such date.