STATE OF NEW YORK

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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.

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instance of significant mental or social decline or crisis of a resident;

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

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

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

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

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

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

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

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

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

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

(i) testing for communicable diseases;

(ii) checking body temperature;

(iii) health screenings;

(iv) appropriate use of personal protection equipment;

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

(vi) any other requirement the department deems appropriate;

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

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

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

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

§ 461-u. Personal caregiving and compassionate caregiving visitors for residents of adult care facilities 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 instance of significant mental or social decline or crisis of a resident;

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

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

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

(a) require adult care facilities to allow personal caregiving visitors to visit residents subject to this section;

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

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

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

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

(f) set forth the circumstances under which visiting by personal caregiving visitors may be temporarily limited or suspended at an adult care facility, including, but not limited to, local infection rates, temporary inadequate staff capacity, or an acute emergency situation;

(g) require, at a minimum, that all personal caregiving visitors follow safety protocols required for adult care facility staff, including, but not limited to:

(i) testing for communicable diseases;

(ii) checking body temperature;

(iii) health screenings;

(iv) appropriate use of personal protection equipment;

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

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

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

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

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

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