

2020 Second Extraordinary Session

HOUSE BILL NO. 99

BY REPRESENTATIVE AMEDEE

HEALTH CARE/FACILITIES: Provides relative to visitation of nursing home residents and residents of adult residential care provider facilities (Items #28 and 59)

1 AN ACT

2 To amend and reenact R.S. 40:2010.8(A)(2)(b)(vii) and (viii), (d), and (B) and to enact R.S.
3 40:2166.11, relative to rights of nursing home residents and residents of adult
4 residential care provider facilities; to provide relative to the right of such residents
5 to have access to visitors; to provide relative to restrictions that nursing homes and
6 adult residential care provider facilities may impose for the protection of residents;
7 to provide for construction of laws; to prohibit any limitation of the right of nursing
8 home residents and residents of adult residential care provider facilities to have
9 access to visitors; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:2010.8(A)(2)(b)(vii) and (viii), (d), and (B) are hereby amended
12 and reenacted and R.S. 40:2166.11 is hereby enacted to read as follows:

13 §2010.8. Residents' bill of rights

14 A. All nursing homes shall adopt and make public a statement of the rights
15 and responsibilities of the residents residing therein and shall treat such residents in
16 accordance with the provisions of the statement. The statement shall assure each
17 resident the following:

- 18 * * *
- 19 (2)
- 20 * * *

1 (b) The right to be granted immediate access to the following:

2 * * *

3 (vii) Immediate family members, other relatives of the resident, and the
4 resident's clergy subject to the resident's right to deny or withdraw consent at any
5 time. The facility shall allow in-person access to the resident by any person
6 identified in this Item if the person or resident chooses to visit in person.

7 (viii) Others who are visiting with the consent of the resident, subject to
8 reasonable restrictions and the resident's right to deny or withdraw consent at any
9 time. The facility shall allow in-person access to the resident by any person
10 identified in this Item if the person or resident chooses to visit in person.

11 * * *

12 (d) Reasonable restrictions are those imposed by the facility that protect the
13 security of all the facility's residents and may include, but shall not be limited to,
14 infection control protocols. The facility may change the location of visits to assist
15 ~~care giving~~ caregiving or protect the privacy of other residents.

16 * * *

17 B.(1) A sponsor may act on a resident's behalf to assure that the nursing
18 home does not deny the resident's rights under the provisions of R.S. 40:2010.6 et
19 seq., and no right enumerated therein may be waived for any reason whatsoever.

20 (2) No provision of the Louisiana Homeland Security and Emergency
21 Assistance and Disaster Act (R.S. 29:721 et seq.), the Louisiana Health Emergency
22 Powers Act (R.S. 29:760), or any other state law or regulation shall be construed to
23 limit a resident's right to have access to in-person visitation by an immediate family
24 member of the resident, other relative of the resident, the resident's clergy, or any
25 other person visiting the resident with the resident's consent as established in
26 Subparagraph (A)(2)(b) of this Section.

27 * * *

28 §2166.11. Residents of adult residential care provider facilities; right to visitation

1 A. Each resident of any facility licensed pursuant to this Part shall have the
2 right to be granted immediate access to all of the following persons:

3 (1) Immediate family members, other relatives of the resident, and the
4 resident's clergy subject to the resident's right to deny or withdraw consent at any
5 time. The facility shall allow in-person access to the resident by any person
6 identified in this Paragraph if the person or resident chooses to visit in person.

7 (2) Others who are visiting with the consent of the resident, subject to
8 reasonable restrictions and the resident's right to deny or withdraw consent at any
9 time. The facility shall allow in-person access to the resident by any person
10 identified in this Paragraph if the person or resident chooses to visit in person.

11 B.(1) For purposes of this Section, "in-person access" means the right of a
12 resident to receive visitors in person at the facility, either in the resident's room or
13 in another location on the facility campus designated by the facility. The facility
14 may change the location of visits to assist caregiving or protect the privacy or health
15 of other residents. Visitation may be subject to reasonable restrictions imposed by
16 the facility.

17 (2) For purposes of this Section, "reasonable restrictions" means restrictions
18 imposed by the facility that protect the security of residents and staff of the facility.
19 Such restrictions may include, but shall not be limited to, infection control protocols.

20 C. The adult residential care provider may ask any visitor who does not
21 comply with reasonable restrictions, or who otherwise endangers the health, safety,
22 or well-being of any resident or staff member, to leave the facility, and may prohibit
23 that person from future visitation.

24 D. A sponsor may act on a resident's behalf to assure that the adult
25 residential care provider does not deny the resident's rights and no right recognized
26 in regulations adopted in accordance with this Part may be waived for any reason.

27 E. No provision of the Louisiana Homeland Security and Emergency
28 Assistance and Disaster Act (R.S. 29:721 et seq.), the Louisiana Health Emergency
29 Powers Act (R.S. 29:760), or any other law or regulation shall be construed to limit

1 a resident's right to have access to in-person visitation by an immediate family
 2 member of the resident, other relative of the resident, the resident's clergy, or any
 3 other person visiting the resident with the resident's consent as established in
 4 Subsection A of this Section.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 99 Original

2020 Second Extraordinary Session

Amedee

Abstract: Provides for rights of nursing home residents and residents of adult residential care provider facilities relative to visitation.

Present law provides for enumerated rights of nursing home residents. Requires that nursing homes assure each resident the right to be granted immediate access to the following persons:

- (1) Immediate family members, other relatives of the resident, and the resident's clergy subject to the resident's right to deny or withdraw consent at any time.
- (2) Others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.

Proposed law retains present law and adds thereto requirements that nursing homes allow in-person access to a resident by any person identified in the items above if the person or resident chooses to visit in person.

Present law provides that "reasonable restrictions" are those imposed by the facility that protect the security of all the facility's residents. Proposed law retains present law and stipulates that such restrictions may include, but shall not be limited to, infection control protocols.

Proposed law provides that no provision of present law or present administrative code shall be construed to limit a nursing home resident's right to have access to in-person visitation by an immediate family member, other relative, the resident's clergy, or any other person visiting the resident with the resident's consent as established in present law.

Proposed law provides that residents of adult residential care provider facilities (known commonly as "assisted living facilities" and referred to hereafter as "ARCP facilities") shall have the right to be granted immediate access to all of the following persons:

- (1) Immediate family members, other relatives, and their clergy subject to the ARCP facility resident's right to deny or withdraw consent at any time.
- (2) Others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.

Proposed law requires ARCP facilities to allow in-person access to the resident by any authorized person if the person or resident chooses to visit in person. Defines "in-person access" as the right of a resident to receive visitors in person at the ARCP facility, either in the resident's room or in another location on the facility campus designated by the facility. Provides that the facility may change the location of visits to assist caregiving or protect the privacy or health of other residents. Stipulates that visitation may be subject to reasonable restrictions imposed by the facility.

Proposed law defines "reasonable restrictions" as restrictions imposed by the ARCP facility that protect the security of residents and staff of the facility. Provides that such restrictions may include, but shall not be limited to, infection control protocols.

Proposed law authorizes ARCP facilities to ask any visitor who does not comply with reasonable restrictions, or who otherwise endangers the health, safety, or well-being of any resident or staff member, to leave the facility and to prohibit that visitor from future visitation.

Proposed law provides that a sponsor may act on an ARCP facility resident's behalf to assure that the ARCP does not deny the resident's rights. Provides that no right recognized in regulations adopted in accordance with proposed law may be waived for any reason.

Proposed law stipulates that no provision of present law or present administrative code shall be construed to limit an ARCP resident's right to have access to in-person visitation by an immediate family member, other relative, clergy, or any other authorized person visiting the resident with the resident's consent.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:2010.8(A)(2)(b)(vii) and (viii), (d), and (B); Adds R.S. 40:2166.11)