

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 43

2020 Second Extraordinary Session

Bacala

NURSING HOMES: Provides for rights of nursing home residents relative to visitation (Item #59)

Synopsis of Senate Amendments

1. Deletes proposed law adding provisions to present law known as the nursing home residents' bill of rights, R.S. 40:2010.8.
2. Deletes proposed law providing that during a state of public health emergency declared to address COVID-19, except in certain limited instances, no provision of present law shall be construed to limit a resident's right to have access to in-person visitation by an immediate family member of the resident, other relative of the resident, the resident's clergy, or any other person visiting the resident with the resident's consent as established in present law.
3. Deletes proposed law providing that residents of adult residential care provider (ARCP) facilities shall have the right to be granted immediate access to all of the following persons:
 - (a) Immediate family members, other relatives, and their clergy subject to the resident's right to deny or withdraw consent at any time.
 - (b) 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.
4. Deletes proposed law providing that ARCP facilities shall allow in-person access to the resident by any authorized person if the person or resident chooses to visit in person.
5. Deletes proposed law authorizing 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.
6. Deletes proposed law providing that a sponsor may act on a resident's behalf to assure that the ARCP does not deny the resident's rights.
7. Deletes proposed law providing that no right recognized in regulations relative to ARCP facilities may be waived for any reason.
8. Deletes proposed law stipulating that no provision of present law 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.
9. Requires the La. Dept. of Health (LDH) to prescribe and publish minimum standards relative to nursing facilities allowing immediate family members and other designated persons to visit residents during a public health emergency whenever a resident requests such a visit with special consideration to be given to residents receiving end-of-life care. Provides that such rules shall:
 - (a) Include, but not be limited to, definitions, minimum requirements, restrictions, and provisions to protect the health, safety, and welfare of

the residents and the staff of the licensed nursing facility.

- (b) Allow licensed nursing facilities to adopt reasonable time, place, and manner restrictions on resident visitation that are implemented for the purpose of mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual resident.
 - (c) Be preempted by any federal statute, regulation, or guidance that requires a licensed nursing facility to restrict resident visitation in a manner that is more restrictive than those rules.
10. Requires LDH to promulgate rules, regulations, and licensing standards relative to ARCPs allowing immediate family members and other designated persons to visit residents during a public health emergency whenever a resident requests such a visit with special consideration to be given to residents receiving end-of-life care. Provides that such rules shall:
- (a) Include, but not be limited to, definitions, minimum requirements, restrictions, and provisions to protect the health, safety, and welfare of the residents and the staff of the ARCP.
 - (b) Allow ARCPs to adopt reasonable time, place, and manner restrictions on resident visitation that are implemented for the purpose of mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual resident.
 - (c) Be preempted by any federal statute, regulation, or guidance that requires an ARCP to restrict resident visitation in a manner that is more restrictive than those rules.

Digest of Bill as Finally Passed by Senate

Present law requires the La. Department of Health (LDH) to promulgate rules, regulations, and minimum standards for nursing facilities and adult residential care provider facilities.

Proposed law retains present law and requires further that LDH promulgate rules for such facilities allowing immediate family members and other designated persons to visit residents during a public health emergency whenever a resident requests such a visit, with special consideration to be given to residents receiving end-of-life care. Provides that such rules shall:

- (1) Include, but not be limited to, definitions, minimum requirements, restrictions, and provisions to protect the health, safety, and welfare of facility residents and staff.
- (2) Allow facilities to adopt reasonable time, place, and manner restrictions on resident visitation that are implemented for the purpose of mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual resident.
- (3) Be preempted by any federal statute, regulation, or guidance that requires a facility to restrict resident visitation in a manner that is more restrictive than those rules.

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

(Adds R.S. 40:2009.4(A)(7) and 2166.5(B)(12))