

ACT No. 18

2020 Second Extraordinary Session

HOUSE BILL NO. 43

BY REPRESENTATIVE BACALA

1 AN ACT

2 To enact R.S. 40:2009.4(A)(7) and 2166.5(B)(12), relative to rights of nursing home
3 residents and residents of adult residential care provider facilities; to provide for
4 legislative findings and intent; to require the Louisiana Department of Health to
5 promulgate rules for visitation during a public health emergency; to provide for
6 exceptions to the rules; to provide for an effective date; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:2009.4(A)(7) and 2166.5(B)(12) are hereby enacted to read as
10 follows:

11 §2009.4. Standards prescribed

12 A. The department shall prescribe and publish minimum standards in relation
13 to:

14 * * *

15 (7)(a) The requirement for licensed nursing facilities to allow immediate
16 family members and other designated persons to visit residents during a public health
17 emergency whenever a resident requests such a visit with special consideration to be
18 given to residents receiving end-of-life care.

19 (b) The rules shall include but not be limited to definitions, minimum
20 requirements, restrictions, and provisions to protect the health, safety, and welfare
21 of the residents and the staff of the licensed nursing facility.

22 (c) The rules shall allow licensed nursing facilities to adopt reasonable time,
23 place, and manner restrictions on resident visitation that are implemented for the
24 purpose of mitigating the possibility of transmission of any infectious agent or

1 disease or to address the medical condition or clinical considerations of an individual
2 resident.

3 (d) The rules promulgated pursuant to this Paragraph shall be preempted by
4 any federal statute, federal regulation, or guidance from a federal government agency
5 that requires a licensed nursing facility to restrict resident visitation in a manner that
6 is more restrictive than the rules adopted by the department pursuant to this
7 Paragraph.

8 (e) For purposes of this Paragraph, the following definitions shall apply:

9 (i) "Public health emergency" means a state of public health emergency that
10 is declared pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et
11 seq.

12 (ii) "Resident" means the resident of the licensed nursing facility or the legal
13 or designated representative of the resident.

14 * * *

15 §2166.5. Rules and regulations; licensing standards; fees

16 * * *

17 B. The department shall prescribe, promulgate, and publish rules, regulations,
18 and licensing standards including but not limited to the following:

19 * * *

20 (12)(a) The requirement for licensed adult residential care providers to allow
21 immediate family members and other designated persons to visit residents during a
22 public health emergency whenever a resident requests such a visit with special
23 consideration to be given to residents receiving end-of-life care.

24 (b) The rules shall include but not be limited to definitions, minimum
25 requirements, restrictions, and provisions to protect the health, safety, and welfare
26 of the residents and the staff of the licensed adult residential care provider.

27 (c) The rules shall allow licensed adult residential care providers to adopt
28 reasonable time, place, and manner restrictions on resident visitation that are
29 implemented for the purpose of mitigating the possibility of transmission of any

1 infectious agent or disease or to address the medical condition or clinical
2 considerations of an individual resident.

3 (d) The rules promulgated pursuant to this Paragraph shall be preempted by
4 any federal statute, federal regulation, or guidance from a federal government agency
5 that requires a licensed adult residential care provider to restrict resident visitation
6 in a manner that is more restrictive than the rules adopted by the department pursuant
7 to this Paragraph.

8 (e) For purposes of this Paragraph, the following definitions shall apply:

9 (i) "Public health emergency" means a state of public health emergency that
10 is declared pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et
11 seq.

12 (ii) "Resident" means the resident of the licensed adult residential care
13 providers or the legal or designated representative of the resident.

14 * * *

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____