

2021 Regular Session

HOUSE BILL NO. 426

BY REPRESENTATIVE AMEDEE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE/FACILITIES: Provides relative to visitation of nursing home residents and assisted living facility residents by persons designated as essential caregivers or compassionate care visitors

1 AN ACT

2 To amend and reenact R.S. 40:2009.4(A)(introductory paragraph) and to enact R.S.

3 40:2009.4(A)(8), 2009.24, 2010.8(A)(2)(b)(ix) and (x), 2166.5(B)(13), and 2166.11,

4 relative to licensed nursing homes and licensed adult residential care provider

5 facilities; to provide for visitation of residents of such licensed facilities by persons

6 designated as essential caregivers or compassionate care visitors; to provide for

7 definitions; to provide conditions and requirements relative to visitation of facility

8 residents by essential caregivers and compassionate care visitors; to provide for

9 duties of nursing homes and adult residential care providers with respect to such

10 visitation; to provide relative to visitation of nursing home residents and adult

11 residential care facility residents by essential caregivers and compassionate care

12 visitors during a state of public health emergency; to provide for administrative

13 rulemaking by the Louisiana Department of Health; and to provide for related

14 matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 40:2009.4(A)(introductory paragraph) is hereby amended and

17 reenacted and R.S. 40:2009.4(A)(8), 2009.24, 2010.8(A)(2)(b)(ix) and (x), 2166.5(B)(13),

18 and 2166.11 are hereby enacted to read as follows:

19 §2009.4. Standards prescribed



1 visitors. Other than in end-of-life situations, during a public health emergency, a  
2 resident may be visited by one such visitor at a time.

3 D. With respect to visits by essential caregivers and compassionate care  
4 visitors during a public health emergency, each nursing home shall do all of the  
5 following:

6 (1) Set a limit on the total number of visitors allowed in the nursing home  
7 based on the ability of staff to safely screen and monitor visitation.

8 (2) Develop an agreeable schedule in concert with the resident and each  
9 essential caregiver and compassionate care visitor who wishes to visit the resident.  
10 Any such schedule shall allow for evening and weekend visitation and, to the  
11 greatest extent practicable, accommodate barriers relating to work or child care  
12 obligations of the essential caregiver or compassionate care visitor.

13 (3) Provide appropriate infection prevention and control training, such as  
14 training on the proper use of personal protective equipment, hand hygiene, and social  
15 distancing.

16 (4) Screen all visitors, including essential caregivers, compassionate care  
17 visitors, and other visitors, to prevent possible introduction of infectious disease.

18 (5) Maintain a visitor log and require essential caregivers and compassionate  
19 care visitors to sign in and out.

20 (6) Prohibit visits, except for compassionate care visits, if the resident is  
21 quarantined or if the resident is positive for or shows symptoms of any infectious  
22 disease to which the public health emergency relates.

23 (7) Monitor visitor adherence to appropriate infection prevention and control  
24 procedures.

25 (8) After attempts to mitigate concerns relating to an essential caregiver's or  
26 compassionate care visitor's behavior, restrict or revoke visitation by an essential  
27 caregiver or compassionate care visitor if that person fails to follow infection  
28 prevention and control requirements or other applicable rules of the nursing home.



1 §2010.8. Residents' bill of rights

2 A. All nursing homes shall adopt and make public a statement of the rights  
3 and responsibilities of the residents residing therein and shall treat such residents in  
4 accordance with the provisions of the statement. The statement shall assure each  
5 resident the following:

6 \* \* \*

7 (2)

8 \* \* \*

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

10 \* \* \*

11 (ix) An essential caregiver as defined in and subject to the conditions of R.S.  
12 40:2009.24.

13 (x) A compassionate care visitor as defined in and subject to the conditions  
14 of R.S. 40:2009.24.

15 \* \* \*

16 §2166.5. Rules and regulations; licensing standards; fees

17 \* \* \*

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

20 \* \* \*

21 (13) Visitation of residents by essential caregivers and compassionate care  
22 visitors as defined in and subject to the conditions of R.S. 40:2166.11.

23 \* \* \*

24 §2166.11. Essential caregivers and compassionate care visitors; visitation during  
25 public health emergency

26 A. For purposes of this Section, the following terms have the meaning  
27 ascribed in this Subsection:

1           (1) "Compassionate care visitor" means a person who provides emotional  
2           support to help an adult residential care provider facility resident deal with a difficult  
3           transition or loss, an upsetting event, or end-of-life circumstances.

4           (2) "Essential caregiver" means a person who has been given consent by an  
5           adult residential care provider facility resident or the resident's legal representative  
6           to provide services or assistance with activities of daily living to help maintain or  
7           improve the quality of the resident's care or the resident's quality of life.

8           (3) "Public health emergency" means a state of public health emergency  
9           declared in accordance with the Louisiana Health Emergency Powers Act, R.S.  
10          29:760 et seq.

11          (4) "Resident" means a resident of any facility licensed in accordance with  
12          the provisions of this Part.

13          B.(1) Any resident's plan of care or service plan shall identify care and  
14          services that the resident's essential caregivers may provide. Such care and services  
15          may include, without limitation, bathing, dressing, eating, and emotional support.

16          (2) Each facility licensed in accordance with the provisions of this Part shall  
17          establish policies and procedures for designation and utilization of essential  
18          caregivers and compassionate care visitors.

19          C. Each resident or his legal representative may designate no more than two  
20          essential caregivers and no more than two compassionate care visitors. Other than  
21          in end-of-life situations, during a public health emergency, a resident may be visited  
22          by one such visitor at a time.

23          D. With respect to visits by essential caregivers and compassionate care  
24          visitors during a public health emergency, each facility licensed in accordance with  
25          the provisions of this Part shall do all of the following:

26                 (1) Set a limit on the total number of visitors allowed in the facility based on  
27                 the ability of staff to safely screen and monitor visitation.

28                 (2) Develop an agreeable schedule in concert with the resident and each  
29                 essential caregiver and compassionate care visitor who wishes to visit the resident.

1 Any such schedule shall allow for evening and weekend visitation and, to the  
2 greatest extent practicable, accommodate barriers relating to work or child care  
3 obligations of the essential caregiver or compassionate care visitor.

4 (3) Provide appropriate infection prevention and control training, such as  
5 training on the proper use of personal protective equipment, hand hygiene, and social  
6 distancing.

7 (4) Screen all visitors, including essential caregivers, compassionate care  
8 visitors, and other visitors, to prevent possible introduction of infectious disease.

9 (5) Maintain a visitor log and require essential caregivers and compassionate  
10 care visitors to sign in and out.

11 (6) Prohibit visits, except for compassionate care visits, if the resident is  
12 quarantined or if the resident is positive for or shows symptoms of any infectious  
13 disease to which the public health emergency relates.

14 (7) Monitor visitor adherence to appropriate infection prevention and control  
15 procedures.

16 (8) After attempts to mitigate concerns relating to an essential caregiver's or  
17 compassionate care visitor's behavior, restrict or revoke visitation by an essential  
18 caregiver or compassionate care visitor if that person fails to follow infection  
19 prevention and control requirements or other applicable rules of the facility.

20 E.(1) Each essential caregiver and compassionate care visitor shall do all of  
21 the following prior to visiting a resident during a public health emergency:

22 (a) Participate in training furnished by the facility on appropriate infection  
23 prevention and control procedures such as the use of personal protective equipment,  
24 hand sanitizing, and social distancing, and sign a form acknowledging that he has  
25 completed the training and will adhere to the facility's infection prevention and  
26 control policies.

27 (b) Subject to the provisions of Subsection F of this Section, comply with  
28 facility-provided testing, if offered, for any disease to which the public health  
29 emergency relates.

1           (2) When visiting a resident, each essential caregiver and compassionate care  
2           visitor shall do all of the following:

3           (a) Utilize appropriate procedures for infection prevention and control,  
4           which may include wearing personal protective equipment. Personal protective  
5           equipment requirements for essential caregivers and compassionate care visitors  
6           shall be consistent with the most recent guidance issued by the Centers for Disease  
7           Control and Prevention for staff of adult residential care provider facilities who care  
8           for residents.

9           (b) Provide care or visit in the resident's room or in an area within the  
10          building designated by the facility for this purpose.

11          (c) Maintain the requisite social distance from facility staff and other  
12          residents and limit movement in the facility in accordance with applicable  
13          requirements of the nursing home.

14          F. A facility licensed in accordance with the provisions of this Part may  
15          require essential caregivers and compassionate care visitors to submit to  
16          facility-provided testing for any disease to which the public health emergency relates  
17          if the use of such testing is based on the most recent guidance issued by the Centers  
18          for Disease Control and Prevention and the U.S. Food and Drug Administration.

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#### 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)]

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HB 426 Original

2021 Regular Session

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**Abstract:** Authorizes visitation of nursing home residents and assisted living facility residents by persons designated as essential caregivers or compassionate care visitors and provides requirements and standards relative to such visitation.

Proposed law provides that, for purposes of proposed law, the following definitions apply:

- (1) "Compassionate care visitor" means a person who provides emotional support to help a nursing home resident or assisted living facility resident deal with a difficult transition or loss, an upsetting event, or end-of-life circumstances.
- (2) "Essential caregiver" means a person who has been given consent by a nursing home resident or assisted living facility resident, or a legal representative of the resident,



to provide services or assistance with activities of daily living to help maintain or improve the quality of the resident's care or the resident's quality of life.

- (3) "Public health emergency" means a state of public health emergency declared in accordance with present law.

Proposed law requires that all nursing home residents' and assisted living facility residents' plans of care or service plans identify care and services that their essential caregivers may provide. Provides that such care and services may include, without limitation, bathing, dressing, eating, and emotional support.

Proposed law requires each nursing home and assisted living facility to establish policies and procedures for designation and utilization of essential caregivers and compassionate care visitors.

Proposed law allows each nursing home resident and assisted living facility resident, or a legal representative of the resident, to designate no more than two essential caregivers and no more than two compassionate care visitors. Stipulates that other than in end-of-life situations, during a public health emergency, a resident may be visited by one such visitor at a time.

With respect to visits by essential caregivers and compassionate care visitors during a public health emergency, proposed law requires each nursing home and assisted living facility to do all of the following:

- (1) Set a limit on the total number of visitors allowed in the facility based on the ability of staff to safely screen and monitor visitation.
- (2) Develop an agreeable schedule in concert with the resident and each essential caregiver and compassionate care visitor who wishes to visit the resident.
- (3) Provide appropriate infection prevention and control training, such as training on proper use of personal protective equipment, hand hygiene, and social distancing.
- (4) Screen all visitors, including essential caregivers, compassionate care visitors, and other visitors, to prevent possible introduction of infectious disease.
- (5) Maintain a visitor log and require essential caregivers and compassionate care visitors to sign in and out.
- (6) Prohibit visits, except for compassionate care visits, if the resident is quarantined or if the resident is positive for or shows symptoms of any infectious disease to which the public health emergency relates.
- (7) Monitor visitor adherence to appropriate infection prevention and control procedures.
- (8) After attempts to mitigate concerns relating to an essential caregiver's or compassionate care visitor's behavior, restrict or revoke visitation by an essential caregiver or compassionate care visitor if that person fails to follow infection prevention and control requirements or other applicable rules of the facility.

Proposed law requires each essential caregiver and compassionate care visitor to do all of the following prior to visiting a nursing home resident or assisted living facility resident during a public health emergency:

- (1) Participate in training furnished by the facility on appropriate infection prevention and control procedures such as the use of personal protective equipment, hand sanitizing, and social distancing, and sign a form acknowledging that he has

completed the training and will adhere to the facility's infection prevention and control policies.

- (2) Comply with facility-provided testing, if offered, for any disease to which the public health emergency relates.

Proposed law requires that when visiting a nursing home resident or assisted living facility resident, each essential caregiver and compassionate care visitor shall do all of the following:

- (1) Utilize appropriate procedures for infection prevention and control, which may include wearing personal protective equipment.
- (2) Provide care or visit in the resident's room or in an area within the building designated by the facility for this purpose.
- (3) Maintain the requisite social distance from facility staff and other residents and limit movement in the facility in accordance with applicable requirements of the facility.

Proposed law authorizes nursing homes and assisted living facilities to require that essential caregivers and compassionate care visitors submit to facility-provided testing for any disease to which the public health emergency relates if the use of such testing is based on the most recent guidance issued by the Centers for Disease Control and Prevention and the U.S. Food and Drug Administration.

Proposed law requires the Louisiana Department of Health to promulgate administrative rules relative to visitation of nursing home residents and assisted living facility residents by essential caregivers and compassionate care visitors in accordance with the conditions and requirements of proposed law.

Present law known as the "nursing home residents' bill of rights" provides for enumerated rights of nursing home residents. Proposed law retains present law and requires that nursing homes assure each resident the right to be granted immediate access to the following persons:

- (1) An essential caregiver, subject to the conditions of proposed law.
- (2) A compassionate care visitor, subject to the conditions of proposed law.

(Amends R.S. 40:2009.4(A)(intro. para.); Adds R.S. 40:2009.4(A)(8), 2009.24, 2010.8(A)(2)(b)(ix) and (x), 2166.5(B)(13), and 2166.11)