

2020 Second Extraordinary Session

HOUSE BILL NO. 43

BY REPRESENTATIVE BACALA

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

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:2010.8(A)(2)(b)(vii) and (viii), (d), and (B) are hereby amended
10 and reenacted to read as follows:

11 §2010.8. Residents' bill of rights

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

16 * * *

17 (2)

18 * * *

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

20 * * *

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

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

9 * * *

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

14 * * *

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

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

25 * * *

26 Section 2. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 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 43 Original

2020 Second Extraordinary Session

Bacala

Abstract: Provides for rights of nursing home residents relative to visitation and prohibits any limitation of such rights.

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

- (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 relative to emergency powers in times of disasters (R.S. 29:721 et seq.) or public health emergencies (R.S. 29:760 et seq.), or any other provision of present law or present administrative code, shall be construed to limit a 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.

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))