

GREEN SHEET REDIGEST

HB 43

2020 Second Extraordinary Session

Bacala

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

DIGEST

Present law provides for the La. Department of Health (LDH) to promulgate minimum standards for nursing homes and adult residential care provider facilities.

Proposed law retains present law and further provides that LDH must promulgate administrative rules for licensed nursing facilities and adult residential care provider facilities to allow 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 given to residents receiving end-of-life care.

Proposed law provides that the rules shall include definitions, minimum requirements, restrictions, and provisions to protect the health, safety, and welfare of the residents and the staff of the facility and shall allow facilities to adopt reasonable time, place, and manner restrictions for mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual resident.

Proposed law provides the rules shall be preempted by any federal statute or regulation or guidance from a federal government agency that requires a licensed nursing facility or adult residential care provider facility to restrict resident visitation in a manner that is more restrictive than the rules adopted by LDH.

Proposed law defines "public health emergency" and "resident".

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))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Stipulate that proposed law relative to the rights of nursing home residents to have in-person visitation shall apply only during a state of public health emergency declared to address COVID-19.
2. Provide that notwithstanding proposed law protecting rights of nursing home residents to have in-person visitation, a resident's right to visitation shall be limited if one or more of the following conditions is met:
 - (a) The limitation is required by rule, regulation, order, or official guidance of the Centers for Medicare and Medicaid Services or any other agency of the federal government.
 - (b) The limitation is provided in an executive order or proclamation of the governor issued during a declared state of public health emergency; except that if both the House and Senate committees on health and welfare find the limitation unacceptable, then the limitation shall be null, void, and without effect.

- (c) The limitation is provided in an order of the state health officer issued during a declared state of public health emergency; except that if both the House and Senate committees on health and welfare find the limitation unacceptable, then the limitation shall be null, void, and without effect.
- 3. Provide for procedures by which a legislative committee may find a limitation on visitation of nursing home residents unacceptable.
- 4. Provide 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:
 - (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.
- 5. Provide 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.
- 6. Define "in-person access" and "reasonable restrictions" for purposes of proposed law relative to visitation of ARCP facility residents.
- 7. Authorize 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.
- 8. Provide that a sponsor may act on a resident's behalf to assure that the ARCP does not deny the resident's rights. Provide that no right recognized in regulations adopted in accordance with proposed law relative to ARCP facilities may be waived for any reason.
- 9. Stipulate 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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the engrossed bill

- 1. Deletes proposed law relative to the right to in-person visitation at nursing facilities and adult residential care provider facilities.
- 2. Requires rulemaking by LDH to provide for visitation by immediate family members and other designated persons during a public health emergency.