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H.B. 120
134th General Assembly

Final Analysis

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Primary Sponsors: Reps. Fraizer and Richardson

Effective date: *

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SUMMARY

Compassionate caregivers

- Requires long-term care facilities to permit compassionate caregivers to provide in-person visitation to facility residents in compassionate care situations during an epidemic, pandemic, or other state of emergency.
- Requires long-term care facilities to develop and implement a compassionate caregiver visitation policy within 30 days of the act's effective date and requires the policy to meet enumerated criteria.
- Requires the compassionate caregiver visitation policy to be the least restrictive possible and provide maximum access to residents.
- Permits at least two visitors per resident for at least two hours if the resident appears to be approaching the end of life.
- Requires long-term care facilities to permit health care and other specified individuals who are not employees of the facility to enter the facility to provide services to residents.

DETAILED ANALYSIS

Compassionate caregivers permitted

The act generally requires a long-term care facility to permit compassionate caregivers to enter the facility to provide in-person visitation to facility residents during an epidemic,

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

pandemic, or other state of emergency. A long-term care facility is an institution, residence, or facility that provides, for a period of more than 24 hours, accommodations for three or more unrelated individuals who are dependent on the services of others, including a nursing home, residential care (“assisted living”) facility, home for the aging, or a veterans’ home. It does not include any federal facility, including U.S. Department of Veterans Affairs’ facilities.¹

Compassionate caregivers must comply with the facility’s visitor policy (see “**Compassionate caregiver visitation policy**” below). When a compassionate caregiver is visiting a patient at a facility governed by the U.S. Centers for Medicare and Medicaid (CMS), the caregiver must also comply with all CMS regulations and guidance.²

Compassionate care situations

Under the act, compassionate care does not refer exclusively to end of life situations and includes at least the following situations:

- The resident’s end of life.
- The resident was recently admitted to the facility and is struggling with the change in environment and lack of physical family support.
- The resident is grieving after a friend or family member has recently passed away.
- The resident is experiencing weight loss or dehydration and needs cueing and encouragement when eating or drinking.
- The resident is experiencing emotional distress from isolation as demonstrated by behavioral changes such as rarely speaking or crying more frequently.
- The resident is in transmission-based precautions for a disease or illness (precautions that are used when the route of infection transmission is not completely interrupted using standard precautions alone).³

Identifying residents in need of compassionate care visits

Long-term care facilities must use a person-centered approach in working with residents, family members, caregivers, personal representatives, and, as appropriate, the State Long-Term Care Ombudsman Program to identify residents who are in need of compassionate caregiver visits for compassionate care situations.⁴

Screening and other procedures

Before entering a long-term care facility, all compassionate caregivers must:

¹ R.C. 3721.20(A)(2); R.C. 3721.01, not in the act.

² R.C. 3721.20(C)(1).

³ R.C. 3721.20(B)(1) and (A)(3).

⁴ R.C. 3721.20(B)(2).

1. Undergo screening to ascertain any exposure to any contagious disease or illness and disclose any symptoms; and
2. Produce valid federal or state identification, log entry into the facility (including providing the individual's telephone number and address except in an emergency), and provide and use all appropriate personal protective equipment.⁵

Compassionate caregiver visitation policy

The act requires each long-term care facility to develop and implement a compassionate caregiver visitation policy that applies during an epidemic, pandemic, or other state of emergency. The policy must be developed and implemented within 30 days after the act's effective date. The visitation policy must:

- Be the least restrictive possible and provide maximum access to the resident;⁶
- Permit visitation at any time to accommodate a compassionate caregiver's and resident's schedule;
- Require a compassionate caregiver to provide support to the resident in the resident's room or designated visitor space and to limit movement through the facility;
- Reasonably provide hand sanitizing stations and alcohol-based hand sanitizer in accessible locations;
- Permit at least two visitors per resident for a minimum of two hours for residents who display a substantial change of condition indicating that end of life is approaching, and longer if death is imminent.
- Require the facility to educate compassionate caregivers, family members, and other interested people about the right to contact the Office of the State Long-Term Care Ombudsman Program with concerns about access to the facility;
- Require the facility to communicate to compassionate caregivers and residents its visitation policy;
- Require compassionate caregivers to comply with the screening requirements (see "**Screening and other procedures**" above); and
- Specify whether compassionate caregivers must schedule compassionate care visits, other than end of life visits, in advance.⁷

⁵ R.C. 3721.20(C)(2).

⁶ R.C. 3721.20(E).

⁷ R.C. 3721.20(D).

Access for health care workers and specified individuals

Long-term care facilities must permit health care and other workers who are not facility employees to enter the facility to provide direct care to residents or essential services to the facility. These workers include:

- Hospice care program workers;
- Home health agency workers;
- Emergency medical services personnel;
- Dialysis technicians;
- Clinical laboratory technicians;
- Radiology technicians;
- Social workers;
- Clergy members;
- Hair salon personnel; and
- Contractors conducting critical on-site maintenance.

A facility may restrict an individual worker from providing services in the facility if the individual (1) is subject to a work exclusion due to direct exposure to a contagious disease or illness or (2) shows symptoms of a contagious disease or illness when being screened before entering the facility.⁸ These health care and other workers must adhere to the core principles of infection prevention and comply with any applicable testing requirements. However, the screening and testing requirements do not apply in exigent circumstances, such as to emergency medical personnel, first responders, or other similarly situated individuals, responding to an emergency.

Additionally, personnel who provide nonemergency medical transportation to residents as arranged by the facility must be tested with the same frequency as facility employees.⁹

Federal guidance

The act provides that it shall not be construed or implemented in such a way as to conflict with federal regulatory guidance regarding long-term care facility visitation, such as CMS or CDC guidance.¹⁰

⁸ R.C. 3721.20(F).

⁹ R.C. 3721.20(G).

¹⁰ R.C. 3721.20(H).

Compliance

The act provides that a long-term care facility must not fail to comply with its requirements.¹¹

HISTORY

Action	Date
Introduced	02-16-21
Reported, H. Families, Aging & Human Services	03-23-21
Passed House (89-2)	03-25-21
Reported, S. Health	04-06-22
Passed Senate (32-0)	04-06-22
House concurred in Senate amendments (94-0)	04-06-22

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¹¹ R.C. 3721.20(l).