

2021 -- H 5543 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO HEALTH AND SAFETY - RIGHTS OF NURSING HOME PATIENTS

Introduced By: Representatives Speakman, and McNamara

Date Introduced: February 12, 2021

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-17.5 of the General Laws entitled "Rights of Nursing Home  
2 Patients" is hereby amended by adding thereto the following section:

3 **23-17.5-32. Access to nursing homes and long-term care facilities for essential**  
4 **caregivers during declared emergency.**

5 (a) For purposes of this section, the following words and phrases shall have the meanings  
6 given to them in this subsection unless the context clearly indicates otherwise:

7 (1) "Declaration of disaster emergency" means a disaster emergency declared by the  
8 governor pursuant to § 30-15-9.

9 (2) "Essential caregiver" means an individual, whether a family member or friend of a  
10 resident of a nursing home or long-term care facility, who is designated by the resident or appointed  
11 by an individual with decision-making authority for the resident to provide physical or emotional  
12 support to the resident during a declaration of disaster emergency.

13 (3) "Nursing home or long-term care facility" means a facility licensed by the department  
14 of health, including a long-term care facility, a skilled nursing facility, an assisted living facility, a  
15 personal care home or an older adult daily living center.

16 (b) The department of health, shall establish rules and regulations to allow a resident of a  
17 nursing home or long-term care or an individual with decision-making authority for the resident to  
18 designate an individual as the resident's essential caregiver during a declaration of disaster  
19 emergency. An essential caregiver shall meet the necessary qualifications to enter the long-term

1 care facility to provide in-person physical or emotional support to a resident of a nursing home or  
2 long-term care facility in accordance with the rules and regulations established pursuant to this  
3 section. The rules and regulations shall include, but not be limited to, all of the following:

4 (1) Safety measures for an essential caregiver, including, but not limited to, restrictions on  
5 travel, enhanced testing for communicable diseases and the necessary safety equipment required to  
6 protect the health and safety of the residents of the nursing home or long-term care facility.

7 (2) Requirements allowing an essential caregiver to have regular and sustained in-person  
8 visitation and physical access to a resident of the nursing home or long-term care facility. These  
9 requirements may limit the nature and extent of this access, when taking into consideration public  
10 safety concerns, but shall not totally exclude an essential caregiver's presence.

11 (3) Procedures to replace an essential caregiver due to necessary circumstances, including  
12 illness or death of the essential caregiver.

13 (4) A duration, not to exceed thirty (30) days, when a nursing home or long-term care  
14 facility may enter a lock-down phase for the purpose of establishing safety measures for residents  
15 of the nursing home or long-term care facility and the essential caregivers.

16 (c)(1) A nursing home or long-term care facility may establish additional safety  
17 requirements to protect the residents of the nursing home or long-term care facility if the  
18 requirements meet all of the following criteria:

19 (i) The requirements are directly linked to a declaration of disaster emergency.

20 (ii) The requirements are not so burdensome and onerous as to substantially prevent an  
21 essential caregiver from being able to physically or emotionally support a resident of the nursing  
22 home or long-term care facility in person.

23 (2) A nursing home or long-term care facility may suspend access to the nursing home or  
24 long-term care facility for an essential caregiver who violates the rules and regulations established  
25 under subsection (b) of this section, and the long-term care facility shall allow the resident, or an  
26 individual with decision-making authority for the resident, to immediately designate a replacement  
27 essential caregiver.

28 (d) A nursing home or long-term care facility may require an essential caregiver to provide  
29 personal protective equipment for himself or herself or assume the cost of the personal protective  
30 equipment provided by the facility to allow the essential caregiver to provide in-person physical or  
31 emotional support.

32 (e) The provisions of this section shall apply for the period commencing fifteen (15) days  
33 after a declaration of disaster emergency and until sixty (60) days after the termination or expiration  
34 of the declaration of disaster emergency by executive order, proclamation or operation of law.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO HEALTH AND SAFETY - RIGHTS OF NURSING HOME PATIENTS

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1           This act would require the department of health to promulgate rules and regulations  
2 providing for the designation of essential caregivers to provide in-person physical or emotional  
3 support to a resident of a nursing home or long-term care facility during the period of fifteen (15)  
4 days after the declaration of disaster emergency and until sixty (60) days after the termination of  
5 the declaration of disaster emergency.

6           This act would take effect upon passage.

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