

Chapter 789

(House Bill 983)

AN ACT concerning

Nursing Homes – COVID–19 and Other Catastrophic Health Emergencies
– Visitation
(The Gloria Daytz Lewis Act)

FOR the purpose of requiring the Maryland Department of Health to develop certain guidelines relating to the restrictions on personal and compassionate care visitation that a nursing home may impose to reduce the spread of COVID–19 or another disease that constitutes a catastrophic health emergency; defining certain terms; declaring the intent of the General Assembly; making this Act an emergency measure; and generally relating to guidelines for nursing home visitation.

BY adding to

Article – Health – General

Section 19–1410.3

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

19–1410.3.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CATASTROPHIC HEALTH EMERGENCY” MEANS A HEALTH EMERGENCY WITH REGARD TO WHICH THE GOVERNOR ISSUES A PROCLAMATION UNDER § 14–3A–02 OF THE PUBLIC SAFETY ARTICLE.

(2) (3) “COMPASSIONATE CARE VISITOR” MEANS A FAMILY MEMBER OR LEGAL GUARDIAN OF A RESIDENT OR ANY INDIVIDUAL WHO IS IMPORTANT TO THE MENTAL, PHYSICAL, OR SOCIAL WELL–BEING OF THE RESIDENT DURING CRITICAL SITUATIONS INCLUDING THE END OF THE RESIDENT’S LIFE, THE SIGNIFICANT MENTAL OR PHYSICAL DECLINE OF THE RESIDENT, OR WHEN EXIGENT CIRCUMSTANCES EXIST REGARDING THE RESIDENT.

~~(3)~~ (4) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

~~(4)~~ (5) “PERSONAL CARE VISITOR” MEANS A FAMILY MEMBER OR LEGAL GUARDIAN OF A RESIDENT WHO IS IMPORTANT TO THE MENTAL, PHYSICAL, OR SOCIAL WELL-BEING OF THE RESIDENT.

(B) (1) ~~THE~~ CONSISTENT WITH FEDERAL REQUIREMENTS, THE DEPARTMENT SHALL DEVELOP GUIDELINES RELATING TO THE RESTRICTIONS ON PERSONAL AND COMPASSIONATE CARE VISITATION THAT A NURSING HOME MAY IMPOSE TO REDUCE THE SPREAD OF COVID-19 OR ANOTHER DISEASE THAT CONSTITUTES A CATASTROPHIC HEALTH EMERGENCY.

(2) ~~THE GUIDELINES REGARDING COMPASSIONATE CARE VISITATION~~ SHALL:

(I) ~~REQUIRE A NURSING HOME TO ALLOW VISITATION BY A COMPASSIONATE CARE VISITOR~~ DESCRIBE THE CIRCUMSTANCES UNDER WHICH VISITATION MAY BE RESTRICTED TO ONLY COMPASSIONATE CARE VISITORS AND PERSONAL CARE VISITORS;

(II) ~~RESTRICT THE COMPASSIONATE CARE VISITOR~~ LIMIT THE MOVEMENT OF VISITORS WITHIN THE NURSING HOME, WHICH MAY INCLUDE RESTRICTING VISITORS TO THE RESIDENT’S ROOM OR ANOTHER DESIGNATED ROOM; AND

(III) ~~REQUIRE EACH COMPASSIONATE CARE VISITOR TO FOLLOW SAFETY PROTOCOLS TO LIMIT THE SPREAD OF COVID-19 OR ANOTHER DISEASE THAT CONSTITUTES A CATASTROPHIC HEALTH EMERGENCY, WHICH MAY INCLUDE:~~

1. TESTING FOR COVID-19 OR ANOTHER DISEASE THAT CONSTITUTES A CATASTROPHIC HEALTH EMERGENCY;

2. CHECKING BODY TEMPERATURE;

3. HEALTH SCREENINGS;

4. THE USE OF PERSONAL PROTECTIVE EQUIPMENT;

5. SOCIAL DISTANCING; AND

6. ANY OTHER SAFETY PROTOCOL THAT THE DEPARTMENT CONSIDERS APPROPRIATE TO LIMIT THE SPREAD OF COVID-19 OR ANOTHER DISEASE THAT CONSTITUTES A CATASTROPHIC HEALTH EMERGENCY IN A NURSING HOME;

(IV) REQUIRE, AS PRACTICABLE AND WHEN AVAILABLE, ALTERNATIVE MEANS OF COMMUNICATION WITH VISITORS IF A NURSING HOME DETERMINES THAT AN IN-PERSON VISIT WOULD ENDANGER THE HEALTH AND SAFETY OF A PATIENT, RESIDENT, OR MEMBER OF THE STAFF; AND

(V) PROVIDE ADDITIONAL GUIDANCE NECESSARY TO PROMOTE ACCESS TO RESIDENTS BY COMPASSIONATE CARE VISITORS.

(3) ~~THE~~ IN ADDITION TO THE REQUIREMENTS IN PARAGRAPH (2) OF THIS SUBSECTION, THE GUIDELINES REGARDING PERSONAL CARE VISITATION SHALL:

~~(I) REQUIRE A NURSING HOME TO ALLOW VISITATION BY A PERSONAL CARE VISITOR;~~

~~(II)~~ (I) ESTABLISH PROCEDURES FOR THE DESIGNATION OF A PERSONAL CARE VISITOR BY A RESIDENT OR A LEGAL REPRESENTATIVE OF THE RESIDENT THAT:

1. MAY INCLUDE REQUIRING A HEALTH CARE PROFESSIONAL TO DETERMINE WHETHER A PERSONAL CARE VISITOR IS NECESSARY FOR THE MENTAL, PHYSICAL, OR SOCIAL WELL-BEING OF THE RESIDENT; AND

2. IF A DETERMINATION IS REQUIRED, AUTHORIZE THE DETERMINATION TO BE MADE BY A HEALTH CARE PROFESSIONAL WHO IS NOT AFFILIATED WITH THE NURSING HOME;

~~(III)~~ (II) PROVIDE THAT A RESIDENT MAY DESIGNATE NOT MORE THAN ONE PERSONAL CARE VISITOR;

~~(IV)~~ (III) ESTABLISH PROCEDURES FOR CHANGING THE DESIGNATION OF A RESIDENT'S PERSONAL CARE VISITOR;

~~(V)~~ (IV) REQUIRE A PERSONAL CARE VISITOR TO WAIVE A NURSING HOME FROM LIABILITY FOR EXPOSURE TO COVID-19 OR ANOTHER DISEASE THAT CONSTITUTES A CATASTROPHIC HEALTH EMERGENCY;

~~(VI)~~ (V) ESTABLISH THE CIRCUMSTANCES UNDER WHICH VISITATION BY A PERSONAL CARE VISITOR MAY BE LIMITED, SUSPENDED, OR

TERMINATED, INCLUDING INCREASED LOCAL INFECTION RATES AND HEALTH CARE CAPACITY;

~~(VII) REQUIRE A PERSONAL CARE VISITOR TO FOLLOW SAFETY PROTOCOLS TO LIMIT THE SPREAD OF COVID-19, WHICH MAY INCLUDE:~~

~~1. TESTING FOR COVID-19;~~

~~2. CHECKING BODY TEMPERATURE;~~

~~3. HEALTH SCREENINGS;~~

~~4. THE USE OF PERSONAL PROTECTIVE EQUIPMENT;~~

~~5. SOCIAL DISTANCING; AND~~

~~6. ANY OTHER SAFETY PROTOCOL THAT THE DEPARTMENT CONSIDERS APPROPRIATE TO LIMIT THE SPREAD OF COVID-19 IN A NURSING HOME;~~

~~(VIII)~~ (VI) ESTABLISH STANDARDS FOR THE FREQUENCY AND DURATION OF PERSONAL CARE VISITS; AND

~~(IX)~~ (VII) ESTABLISH THE TOTAL NUMBER OF PERSONAL CARE VISITORS AUTHORIZED TO VISIT A NURSING HOME FACILITY AT ANY ONE TIME.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that during a catastrophic public health emergency issued by the Governor under § 14-3A-02 of the Public Safety Article that visitation in nursing homes be prioritized to balance the physical needs of the residents with the mental and spiritual needs of the residents and family members resulting from isolation and separation during the emergency.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.