

As Reported by the House Aging and Long-Term Care Committee

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Representatives Richardson, Fraizer

Cosponsors: Representatives Abrams, Baldridge, Becker, Carruthers, Cross, Ghanbari, Ginter, Grendell, Hambley, Hillyer, Holmes, A., Jones, Jordan, Keller, Kick, Koehler, LaRe, McClain, Merrin, Plummer, Riedel, Scherer, Seitz, Smith, T., Stein, Swearingen, Wilkin, Zeltwanger, Green

A BILL

To permit essential caregivers to enter long-term
care facilities to provide support to a facility
resident in compassionate care situations during
the COVID-19 state of emergency, to establish
criteria for those visits, and to declare an
emergency.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. (A) As used in this section:

(1) "Essential caregiver" means an individual who provides
in-person visitation to a long-term care facility resident in
compassionate care situations in accordance with this section.

(2) "Long-term care facility" means both of the following:

(a) A home, as defined in section 3721.01 of the Revised
Code;

(b) An ICF/IID, as defined in section 5124.01 of the
Revised Code.

"Long-term care facility" does not include any federal 16
facility operated in this state, including a facility operated 17
by the United States department of veterans affairs. 18

(B) (1) A long-term care facility shall permit an essential 19
caregiver to enter the facility to provide in-person visitation 20
to a resident in compassionate care situations, which does not 21
refer exclusively to end of life situations. Compassionate care 22
situations include, but are not limited to, any of the following 23
situations: 24

(a) The resident was recently admitted to the facility and 25
is struggling with the change in environment and lack of 26
physical family support. 27

(b) The resident is grieving after a friend or family 28
member has recently passed away. 29

(c) The resident is experiencing weight loss or 30
dehydration and needs cueing and encouragement when eating or 31
drinking. 32

(d) The resident is experiencing emotional distress from 33
isolation as demonstrated by behavioral changes such as rarely 34
speaking or crying more frequently. 35

(2) A long-term care facility shall permit an essential 36
caregiver to enter the facility to provide in-person visitation 37
to a resident when the resident displays a substantial change of 38
condition indicating that end of life is approaching. Some 39
indications that end of life is approaching may include loss of 40
appetite (no eating or drinking), increased sleeping, delirium, 41
unexplained agitation, mottling of skin, significant decline in 42
cognition, or an increase in depression accompanying other 43
indications. The facility shall permit at least two visitors per 44

resident for a minimum of two hours for end of life visits. 45
Additional visitors or increased time may be permitted as 46
appropriate if coordinated with the facility. Essential 47
caregivers visiting for end of life situations shall comply with 48
the visitation and screening requirements of division (F) of 49
this section. 50

(3) A long-term care facility shall use a person-centered 51
approach in working with residents, family members, caregivers, 52
personal representatives, and, as appropriate, the State Long- 53
Term Care Ombudsman Program to identify residents who are in 54
need of visits by an essential caregiver in a compassionate care 55
situation under division (B) (1) or (2) of this section. 56

(C) An essential caregiver shall meet both of the 57
following criteria: 58

(1) Be at least eighteen years of age; 59

(2) Provide support to the resident, including, but not 60
limited to, meal set up and companionship. 61

(D) (1) When visiting a long-term care facility resident in 62
a long-term care facility that is governed by United States 63
Centers for Medicare and Medicaid Services regulations, the 64
essential caregiver must comply with all regulations and 65
guidance issued by the Centers for Medicare and Medicaid 66
Services, as well as the facility's visitor policy established 67
under division (F) of this section. When visiting a resident in 68
a long-term care facility that is not governed by Centers for 69
Medicare and Medicaid Services regulations, the essential 70
caregiver must comply with the facility's visitor policy 71
established under division (F) of this section. 72

(2) Before entering a long-term care facility, all 73

essential caregivers shall do both of the following: 74

(a) Undergo screening to ascertain any exposure to COVID- 75
19 and disclose any COVID-19 symptoms, including cough, 76
shortness of breath, or a temperature above 100 degrees; 77

(b) Produce valid federal or state identification and log 78
entry into the facility, limit movement within the facility, and 79
provide and use all appropriate personal protective equipment. 80

(E) The long-term care facility resident, or the 81
resident's attorney in fact, legal guardian, or other personal 82
representative, has sole discretion to designate, or revoke the 83
designation of, an essential caregiver for the resident. The 84
resident, attorney in fact, legal guardian, or personal 85
representative shall consult with the long-term care facility 86
staff before designating an essential caregiver for the 87
resident. The resident may designate, at minimum, one alternate 88
essential caregiver who will provide compassionate care visits 89
in the event that the essential caregiver is unable to visit. A 90
resident shall not change an essential caregiver designation 91
more than once every thirty days. 92

(F) Not later than two weeks after the effective date of 93
this section, each long-term care facility shall develop and 94
implement a visitation policy regulating essential caregivers. 95
The policy shall do all of the following: 96

(1) Permit a facility resident to designate an essential 97
caregiver in accordance with division (E) of this section to 98
provide support for that resident. 99

(2) Permit the resident to designate additional essential 100
caregivers as recommended by the long-term care ombudsman, as 101
appropriate. 102

- (3) Require the facility to consult with a resident about the resident's wishes regarding who to designate as the resident's essential caregiver. In considering who to designate as the resident's essential caregiver, the resident and the facility may consider individuals who provided regular support to the resident before the COVID-19 outbreak, such as family members, legal guardians, friends, outside caregivers, and volunteers, as well as other individuals.
- (4) Comply with division (G) of this section.
- (5) Designate a single point of entry where essential caregivers must sign in and be screened for COVID-19 symptoms before entering the facility.
- (6) Require screening of essential caregivers for COVID-19 symptoms before the caregiver enters the facility, in the same manner as facility staff.
- (7) Permit evening and weekend visits to accommodate an essential caregiver's schedule.
- (8) Require an essential caregiver to provide support to the resident in the resident's room or designated visitor space and to limit movement throughout the facility.
- (9) Reasonably provide hand sanitizing stations and alcohol-based hand sanitizer in accessible locations, in accordance with local health department guidelines.
- (10) Require essential caregivers to do all of the following:
- (a) Sign in upon arrival at the facility's single entry point and be screened for COVID-19 symptoms;
- (b) Wear all necessary personal protective equipment when

in the facility, including, at a minimum, a facial covering, and 131
perform frequent hand hygiene; 132

(c) Maintain social distancing of at least six feet with 133
other residents and staff when in the facility; 134

(d) Agree to limit contact with other individuals when 135
outside of the facility; 136

(e) Inform the facility if the caregiver develops COVID-19 137
symptoms within fourteen days of a visit with the resident; 138

(f) Comply with the screening requirements of division (D) 139
(2) of this section. 140

(11) Require the facility to communicate to essential 141
caregivers its COVID-19 testing policy for visitors. 142

(G) The policy developed and implemented under division 143
(F) shall be the least restrictive possible and provide maximum 144
access to the resident. 145

Compassionate care visits and visits described in 146
division (I) of this section are exempt from COVID-19 severity 147
restrictions, even if the COVID-19 positivity rate in the county 148
is greater than ten per cent. The long-term care facility may 149
implement more restrictive visitation measures if there is a 150
COVID-19 outbreak in the facility or the essential caregiver has 151
been exposed to an individual who tested positive for COVID-19. 152

(H) (1) The long-term care facility shall educate essential 153
caregivers about the proper use of personal protective equipment 154
and reinforce safe practices. This requirement may be satisfied 155
by posters that demonstrate key instructions for the use of the 156
personal protective equipment. 157

(2) The long-term care facility shall educate essential 158

caregivers, family members, and other interested persons, about 159
the right to contact the Office of the State Long-Term Care 160
Ombudsman Program established under section 173.15 of the 161
Revised Code with concerns about access to the facility and its 162
residents for facilities that are not ICFs/IID. The State Long- 163
Term Care Ombudsman Program does not have jurisdiction over 164
long-term care facilities that are ICFs/IID. 165

(I) A long-term care facility shall permit health care 166
workers to enter the facility who are not employees of the 167
facility but provide direct care to facility residents, 168
including hospice care program workers, emergency medical 169
services personnel, dialysis technicians, clinical laboratory 170
technicians, general x-ray machine operators, radiographers, 171
radiation therapy technologists, or nuclear medicine 172
technologists, and other health professionals. The facility also 173
shall permit social workers and members of the clergy to provide 174
services to residents in the facility. A facility may, however, 175
restrict such an individual from providing services in the 176
facility if the individual is subject to a work exclusion due to 177
direct exposure to COVID-19 or shows symptoms of COVID-19 when 178
being screened before entering the facility. 179

(J) The screening requirements of division (D) (2) of this 180
section do not apply in exigent circumstances, such as to 181
emergency medical personnel, first responders, or other 182
similarly situated individuals, in response to an emergency. 183

(K) This section shall not be construed or implemented in 184
such a way as to conflict with federal regulatory guidance 185
regarding long-term care facility visitation during the COVID-19 186
outbreak, such as guidance issued by the Centers for Medicare 187
and Medicaid Services and the Centers for Disease Control and 188

Prevention. 189

Section 2. A long-term care facility, as defined in 190
Section 1 of this act, including a residential care facility as 191
defined in section 3721.01 of the Revised Code, is a "facility" 192
for purposes of Section 1 and a "person" for purposes of Section 193
2 of House Bill 606 of the 133rd General Assembly. The qualified 194
civil immunity established in division (B) of Section 1 of that 195
act applies to a long-term care facility, as defined in Section 196
1 of this act. The qualified civil immunity established in 197
division (A) of Section 2 of that act applies to a long-term 198
care facility, as defined in Section 1 of this act. 199

Section 3. Sections 1 and 2 of this act apply from the 200
act's effective date through December 31, 2021, or the end of 201
the state of emergency due to COVID-19 declared in the 202
Governor's Executive Order 2020-01D, issued on March 9, 2020, 203
whichever is sooner. 204

Section 4. This act is hereby declared to be an emergency 205
measure necessary for the immediate preservation of the public 206
peace, health, and safety. The reason for such necessity is to 207
provide relief to long-term care facility residents during the 208
COVID-19 state of emergency. Therefore, this act shall go into 209
immediate effect. 210