

CHAPTER 430

HEALTH AND ENVIRONMENT

SENATE BILL 22-053

BY SENATOR(S) Sonnenberg, Cooke, Donovan, Gardner, Holbert, Kirkmeyer, Lundeen, Moreno, Scott, Simpson, Smallwood, Woodward;
also REPRESENTATIVE(S) McLachlan and Geitner, Pico, Van Beber, Van Winkle.

AN ACT

CONCERNING VISITATION RIGHTS AT HEALTH-CARE FACILITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-1-120, **amend** (1)(b) as follows:

25-1-120. Nursing facilities - rights of patients. (1) The department shall require all skilled nursing facilities and intermediate care facilities to adopt and make public a statement of the rights and responsibilities of the patients who are receiving treatment in such facilities and to treat their patients in accordance with the provisions of said statement. The statement shall ensure each patient the following:

(b) The right to have private and unrestricted communications with any person of ~~his~~ THE PATIENT'S choice, EXCEPT AS SPECIFIED IN SECTION 25-3-125 (2) AND (3);

SECTION 2. In Colorado Revised Statutes, **recreate and reenact, with amendments**, 25-3-125 as follows:

25-3-125. Visitation rights - hospital patients - residents in nursing care facilities or assisted living residences - limitations during a pandemic - definitions - short title. (1) THE SHORT TITLE OF THIS SECTION IS THE "ELIZABETH'S NO PATIENT OR RESIDENT LEFT ALONE ACT".

(2) (a) SUBJECT TO THE RESTRICTIONS AND LIMITATIONS FOR SKILLED NURSING FACILITY AND NURSING FACILITY RESIDENTS' VISITATION RIGHTS SPECIFIED IN 42 U.S.C. 1396r (c)(3)(C); 42 U.S.C. 1395i (c)(3)(C); 42 CFR 483.10 (a), (b), AND (f);

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

THE RIGHTS FOR ASSISTED LIVING RESIDENTS SPECIFIED IN RULE PURSUANT TO SECTION 25-27-104; THE RESTRICTIONS AND LIMITATIONS SPECIFIED BY A HEALTH-CARE FACILITY PURSUANT TO SUBSECTION (3) OF THIS SECTION; RESTRICTIONS AND LIMITATIONS SPECIFIED IN STATE OR LOCAL PUBLIC HEALTH ORDERS; AND THE COMMUNICATIONS EXCEPTION SPECIFIED IN SECTION 25-1-120, IN ADDITION TO HOSPITAL PATIENT VISITATION RIGHTS IN 42 CFR 482.13 (h), A PATIENT OR RESIDENT OF A HEALTH-CARE FACILITY MAY HAVE AT LEAST ONE VISITOR OF THE PATIENT'S OR RESIDENT'S CHOOSING DURING THE PATIENT'S STAY OR RESIDENCY AT THE HEALTH-CARE FACILITY, INCLUDING:

(I) A VISITOR TO PROVIDE A COMPASSIONATE CARE VISIT TO ALLEVIATE THE PATIENT'S OR RESIDENT'S PHYSICAL OR MENTAL DISTRESS;

(II) A VISITOR OR SUPPORT PERSON DESIGNATED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION FOR A PATIENT OR RESIDENT WITH A DISABILITY; AND

(III) FOR A PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL GUARDIAN OF, OR THE PERSON STANDING IN LOCO PARENTIS TO, THE PATIENT.

(b) (I) A PATIENT OR RESIDENT OF A HEALTH-CARE FACILITY MAY DESIGNATE, ORALLY OR IN WRITING, A SUPPORT PERSON WHO SUPPORTS THE PATIENT OR RESIDENT DURING THE COURSE OF THE PATIENT'S STAY OR RESIDENCY AT A HEALTH-CARE FACILITY AND WHO MAY VISIT THE PATIENT OR RESIDENT AND EXERCISE THE PATIENT'S OR RESIDENT'S VISITATION RIGHTS ON BEHALF OF THE PATIENT OR RESIDENT WHEN THE PATIENT OR RESIDENT IS INCAPACITATED OR OTHERWISE UNABLE TO COMMUNICATE.

(II) WHEN A PATIENT OR RESIDENT HAS NOT DESIGNATED A SUPPORT PERSON PURSUANT TO SUBSECTION (2)(b)(I) OF THIS SECTION AND IS INCAPACITATED OR OTHERWISE UNABLE TO COMMUNICATE THE PATIENT'S OR RESIDENT'S WISHES AND AN INDIVIDUAL PROVIDES AN ADVANCE MEDICAL DIRECTIVE DESIGNATING THE INDIVIDUAL AS THE PATIENT'S OR RESIDENT'S SUPPORT PERSON OR OTHER TERM INDICATING THE INDIVIDUAL IS AUTHORIZED TO EXERCISE RIGHTS COVERED BY THIS SECTION ON BEHALF OF THE PATIENT OR RESIDENT, THE HEALTH-CARE FACILITY SHALL ACCEPT THIS DESIGNATION AND ALLOW THE INDIVIDUAL TO EXERCISE THE PATIENT'S OR RESIDENT'S VISITATION RIGHTS ON THE PATIENT'S OR RESIDENT'S BEHALF.

(3) (a) CONSISTENT WITH 42 CFR 482.13 (h); 42 U.S.C. 1396r (c)(3)(C); 42 U.S.C. 1395i (c)(3)(C); 42 CFR 483.10 (a), (b), AND (f); AND SECTION 25-27-104, A HEALTH-CARE FACILITY SHALL HAVE WRITTEN POLICIES AND PROCEDURES REGARDING THE VISITATION RIGHTS OF PATIENTS AND RESIDENTS, INCLUDING POLICIES AND PROCEDURES SETTING FORTH ANY NECESSARY OR REASONABLE RESTRICTION OR LIMITATION TO ENSURE HEALTH AND SAFETY OF PATIENTS, STAFF, OR VISITORS THAT THE HEALTH-CARE FACILITY MAY NEED TO PLACE ON PATIENT OR RESIDENT VISITATION RIGHTS AND THE REASONS FOR THE RESTRICTION OR LIMITATION.

(b) (I) DURING A PERIOD WHEN THE RISK OF TRANSMISSION OF A COMMUNICABLE DISEASE IS HEIGHTENED, A HEALTH-CARE FACILITY MAY:

(A) REQUIRE VISITORS TO ENTER THE HEALTH-CARE FACILITY THROUGH A SINGLE, DESIGNATED ENTRANCE;

(B) DENY ENTRANCE TO A VISITOR WHO HAS KNOWN SYMPTOMS OF THE COMMUNICABLE DISEASE AND SHOULD ENCOURAGE THE VISITOR TO SEEK CARE;

(C) REQUIRE VISITORS TO USE MEDICAL MASKS, FACE COVERINGS, OR OTHER PERSONAL PROTECTIVE EQUIPMENT WHILE ON THE HEALTH-CARE FACILITY PREMISES OR IN SPECIFIC AREAS OF THE HEALTH-CARE FACILITY;

(D) FOR A HOSPITAL, REQUIRE VISITORS TO SIGN A WAIVER ACKNOWLEDGING THE RISKS OF ENTERING THE HEALTH-CARE FACILITY, WAIVING ANY CLAIMS AGAINST THE HEALTH-CARE FACILITY IF THE VISITOR CONTRACTS THE COMMUNICABLE DISEASE WHILE ON THE HEALTH-CARE FACILITY PREMISES, AND ACKNOWLEDGING THAT MENACING AND PHYSICAL ASSAULTS ON HEALTH-CARE WORKERS AND OTHER EMPLOYEES OF THE HEALTH-CARE FACILITY WILL NOT BE TOLERATED, AND, IF SUCH ABUSE OCCURS, A HOSPITAL MAY RESTRICT THE VISITOR'S CURRENT OR FUTURE ACCESS;

(E) FOR ALL OTHER HEALTH-CARE FACILITIES, REQUIRE VISITORS TO SIGN A DOCUMENT ACKNOWLEDGING THE RISKS OF ENTERING THE HEALTH-CARE FACILITY AND ACKNOWLEDGING THAT MENACING AND PHYSICAL ASSAULTS ON HEALTH-CARE WORKERS AND OTHER EMPLOYEES OF THE HEALTH-CARE FACILITY WILL NOT BE TOLERATED;

(F) REQUIRE ALL VISITORS, BEFORE ENTERING THE HEALTH-CARE FACILITY, TO BE SCREENED FOR SYMPTOMS OF THE COMMUNICABLE DISEASE AND DENY ENTRANCE TO ANY VISITOR WHO HAS SYMPTOMS OF THE COMMUNICABLE DISEASE;

(G) REQUIRE ALL VISITORS TO THE HEALTH-CARE FACILITY TO BE TESTED FOR THE COMMUNICABLE DISEASE AND DENY ENTRY FOR THOSE WHO HAVE A POSITIVE TEST RESULT; AND

(H) RESTRICT THE MOVEMENT OF VISITORS WITHIN THE HEALTH-CARE FACILITY, INCLUDING RESTRICTING ACCESS TO WHERE IMMUNOCOMPROMISED OR OTHERWISE VULNERABLE POPULATIONS ARE AT GREATER RISK OF BEING HARMED BY A COMMUNICABLE DISEASE.

(II) FOR VISITATION OF A PATIENT OR RESIDENT WITH A COMMUNICABLE DISEASE WHO IS ISOLATED, THE HEALTH-CARE FACILITY MAY:

(A) LIMIT VISITATION TO ESSENTIAL CAREGIVERS WHO ARE HELPING TO PROVIDE CARE TO THE PATIENT OR RESIDENT;

(B) LIMIT VISITATION TO ONE CAREGIVER AT A TIME PER PATIENT OR RESIDENT WITH A COMMUNICABLE DISEASE;

(C) SCHEDULE VISITORS TO ALLOW ADEQUATE TIME FOR SCREENING, EDUCATION, AND TRAINING OF VISITORS AND TO COMPLY WITH ANY LIMITS ON THE NUMBER OF VISITORS PERMITTED IN THE ISOLATED AREA AT ONE TIME; AND

(D) PROHIBIT THE PRESENCE OF VISITORS DURING AEROSOL-GENERATING PROCEDURES OR DURING COLLECTION OF RESPIRATORY SPECIMENS.

(4) IF A HEALTH-CARE FACILITY REQUIRES, PURSUANT TO SUBSECTION (3) OF THIS SECTION, THAT A VISITOR USE A MEDICAL MASK, FACE COVERING, OR OTHER PERSONAL PROTECTIVE EQUIPMENT, OR TAKE A TEST FOR A COMMUNICABLE DISEASE, IN ORDER TO VISIT A PATIENT OR RESIDENT AT THE HEALTH-CARE FACILITY, NOTHING IN THIS SECTION:

(a) REQUIRES THE HEALTH-CARE FACILITY, IF THE REQUIRED EQUIPMENT OR TEST IS NOT AVAILABLE DUE TO LACK OF SUPPLY, TO ALLOW A VISITOR TO ENTER THE FACILITY;

(b) REQUIRES THE HEALTH-CARE FACILITY TO SUPPLY THE REQUIRED EQUIPMENT OR TEST TO THE VISITOR OR BEAR THE COST OF THE EQUIPMENT FOR THE VISITOR; OR

(c) PRECLUDES THE HEALTH-CARE FACILITY FROM SUPPLYING THE REQUIRED EQUIPMENT OR TEST TO THE VISITOR.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVANCE MEDICAL DIRECTIVE" HAS THE SAME MEANING AS SET FORTH IN SECTION 15-18.7-102 (2).

(b) "CAREGIVER" MEANS A PARENT, SPOUSE, OR OTHER FAMILY MEMBER OR FRIEND OF A PATIENT WHO PROVIDES CARE TO THE PATIENT.

(c) "COMMUNICABLE DISEASE" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-1.5-102 (1)(a)(IV).

(d) (I) "COMPASSIONATE CARE VISIT" MEANS A VISIT WITH A FRIEND OR FAMILY MEMBER THAT IS NECESSARY TO MEET THE PHYSICAL OR MENTAL NEEDS OF A PATIENT OR RESIDENT WHEN THE PATIENT OR RESIDENT IS EXHIBITING SIGNS OF PHYSICAL OR MENTAL DISTRESS, INCLUDING:

(A) END-OF-LIFE SITUATIONS;

(B) ADJUSTMENT SUPPORT AFTER MOVING TO A NEW FACILITY OR ENVIRONMENT;

(C) EMOTIONAL SUPPORT AFTER THE LOSS OF A FRIEND OR FAMILY MEMBER;

(D) PHYSICAL SUPPORT AFTER EATING OR DRINKING ISSUES, INCLUDING WEIGHT LOSS OR DEHYDRATION; OR

(E) SOCIAL SUPPORT AFTER FREQUENT CRYING, DISTRESS, OR DEPRESSION.

(II) "COMPASSIONATE CARE VISIT" INCLUDES A VISIT FROM:

(A) A CLERGY MEMBER OR LAYPERSON OFFERING RELIGIOUS OR SPIRITUAL SUPPORT; OR

(B) OTHER PERSONS REQUESTED BY THE PATIENT OR RESIDENT FOR THE PURPOSE OF A COMPASSIONATE CARE VISIT.

(e) "HEALTH-CARE FACILITY" MEANS A HOSPITAL, NURSING CARE FACILITY, OR ASSISTED LIVING RESIDENCE LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION 25-3-101.

(f) "PATIENT OR RESIDENT WITH A DISABILITY" MEANS A PATIENT OR RESIDENT WHO NEEDS ASSISTANCE TO EFFECTIVELY COMMUNICATE WITH HEALTH-CARE FACILITY STAFF, MAKE HEALTH-CARE DECISIONS, OR ENGAGE IN ACTIVITIES OF DAILY LIVING DUE TO A DISABILITY SUCH AS:

- (I) A PHYSICAL, INTELLECTUAL, BEHAVIORAL, OR COGNITIVE DISABILITY;
- (II) DEAFNESS, BEING HARD OF HEARING, OR OTHER COMMUNICATION BARRIERS;
- (III) BLINDNESS;
- (IV) AUTISM SPECTRUM DISORDER; OR
- (V) DEMENTIA.

SECTION 3. Appropriation. For the 2022-23 state fiscal year, \$45,409 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.6 FTE. To implement this act, the division may use this appropriation for the nursing and acute care facility survey.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 8, 2022