

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0256.02 Christy Chase x2008

HOUSE BILL 21-1172

HOUSE SPONSORSHIP

Geitner,

SENATE SPONSORSHIP

Smallwood and Ginal,

House Committees

Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING VISITATION RIGHTS AT HEALTH-CARE FACILITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill specifies that a patient admitted to a hospital for inpatient care and a resident of a nursing care facility or assisted living residence may have at least one visitor of the patient's or resident's choosing during the stay or residency. A hospital, a nursing care facility, and an assisted living residence (collectively referred to as "health-care facility") must have written policies and procedures regarding the visitation rights of patients and residents, including policies and procedures setting forth any clinically necessary or reasonable restriction or limitation that the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

health-care facility may need to place on patient and resident visitation rights and the reasons for the restriction or limitation.

The bill prohibits a health-care facility from adopting policies or procedures that prohibit visitation of a patient or resident if the sole reason for the prohibition is to reduce the risk of transmission of a pandemic disease, but a health-care facility may impose specified requirements and limitations for visitors to reduce the risk of transmission of the pandemic disease.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 25-3-125 as follows:

4 **25-3-125. Visitation rights - hospital patients - residents in**
5 **nursing care facilities or assisted living residences - limitations during**
6 **a pandemic - definitions - short title.** (1) THE SHORT TITLE OF THIS
7 SECTION IS THE "NO PATIENT OR RESIDENT LEFT ALONE ACT".

8 (2) (a) IN ADDITION TO HOSPITAL PATIENT VISITATION RIGHTS
9 SPECIFIED IN 42 CFR 482.13 (h) AND SUBJECT TO THE LIMITATIONS
10 SPECIFIED BY A HEALTH-CARE FACILITY PURSUANT TO SUBSECTION (3) OF
11 THIS SECTION, A PATIENT OR RESIDENT OF A HEALTH-CARE FACILITY MAY
12 HAVE AT LEAST ONE VISITOR OF THE PATIENT'S OR RESIDENT'S CHOOSING
13 DURING THE PATIENT'S STAY OR RESIDENCY AT THE HEALTH-CARE
14 FACILITY, INCLUDING:

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

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

20 (III) FOR A PATIENT WHO IS LESS THAN EIGHTEEN YEARS OF AGE,
21 THE PARENT OR LEGAL GUARDIAN OF, OR THE PERSON STANDING IN LOCO

1 PARENTIS TO, THE PATIENT.

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

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

21 (3) (a) CONSISTENT WITH 42 CFR 482.13 (h), A HEALTH-CARE
22 FACILITY SHALL HAVE WRITTEN POLICIES AND PROCEDURES REGARDING
23 THE VISITATION RIGHTS OF PATIENTS AND RESIDENTS, INCLUDING POLICIES
24 AND PROCEDURES SETTING FORTH ANY CLINICALLY NECESSARY OR
25 REASONABLE RESTRICTION OR LIMITATION THAT THE HEALTH-CARE
26 FACILITY MAY NEED TO PLACE ON PATIENT OR RESIDENT VISITATION
27 RIGHTS AND THE REASONS FOR THE RESTRICTION OR LIMITATION, SUBJECT

1 TO SUBSECTION (3)(b) OF THIS SECTION.

2 (b) A HEALTH-CARE FACILITY SHALL NOT ADOPT POLICIES OR
3 PROCEDURES THAT PROHIBIT VISITATION OF A PATIENT OR RESIDENT IF THE
4 SOLE REASON FOR THE PROHIBITION IS TO REDUCE THE RISK OF
5 TRANSMISSION OF A PANDEMIC DISEASE, BUT A HEALTH-CARE FACILITY
6 MAY IMPOSE REQUIREMENTS AND LIMITATIONS FOR VISITORS AS SPECIFIED
7 IN SUBSECTION (3)(c) OF THIS SECTION.

8 (c) (I) DURING A PERIOD WHEN THE RISK OF TRANSMISSION OF A
9 PANDEMIC DISEASE IS HEIGHTENED, REGARDLESS OF KNOWN COMMUNITY
10 TRANSMISSION, A HEALTH-CARE FACILITY MAY:

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

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

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

20 (D) REQUIRE VISITORS TO SIGN A WAIVER ACKNOWLEDGING THE
21 RISKS OF ENTERING THE HEALTH-CARE FACILITY AND WAIVING ANY
22 CLAIMS AGAINST THE HEALTH-CARE FACILITY IF THE VISITOR CONTRACTS
23 THE EPIDEMIC DISEASE WHILE ON THE HEALTH-CARE FACILITY PREMISES.

24 (II) DURING A PERIOD OF KNOWN COMMUNITY TRANSMISSION OF
25 A PANDEMIC DISEASE, IN ADDITION TO THE REQUIREMENTS AND
26 LIMITATIONS SPECIFIED IN SUBSECTION (3)(c)(I) OF THIS SECTION, A
27 HEALTH-CARE FACILITY MAY:

1 (A) REQUIRE ALL VISITORS, BEFORE ENTERING THE HEALTH-CARE
2 FACILITY, TO BE SCREENED FOR SYMPTOMS OF THE PANDEMIC DISEASE AND
3 DENY ENTRANCE TO ANY VISITOR WHO HAS SYMPTOMS OF THE PANDEMIC
4 DISEASE; AND

5 (B) DURING WIDESPREAD COMMUNITY TRANSMISSION OF THE
6 PANDEMIC DISEASE, LIMIT ACCESS TO THE HEALTH-CARE FACILITY TO
7 ONLY CAREGIVERS WHO ARE ESSENTIAL FOR HELPING TO PROVIDE PATIENT
8 OR RESIDENT CARE OR TO PROVIDE A COMPASSIONATE CARE VISIT AND
9 REQUIRE THOSE CAREGIVERS TO WEAR A MEDICAL MASK, FACE COVERING,
10 OR OTHER PERSONAL PROTECTIVE EQUIPMENT;

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

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

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

22 (D) RESTRICT THE MOVEMENT OF VISITORS WITHIN THE
23 HEALTH-CARE FACILITY; AND

24 (E) PROHIBIT THE PRESENCE OF VISITORS DURING
25 AEROSOL-GENERATING PROCEDURES OR DURING COLLECTION OF
26 RESPIRATORY SPECIMENS.

27 (4) IF A HEALTH-CARE FACILITY REQUIRES, PURSUANT TO

1 SUBSECTION (3) OF THIS SECTION, THAT A VISITOR USE A MEDICAL MASK,
2 FACE COVERING, OR OTHER PERSONAL PROTECTIVE EQUIPMENT IN ORDER
3 TO VISIT A PATIENT OR RESIDENT AT THE HEALTH-CARE FACILITY, NOTHING
4 IN THIS SECTION:

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

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

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

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

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

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

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

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

26 (A) END-OF-LIFE SITUATIONS;

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

1 ENVIRONMENT;

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

3 MEMBER;

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

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

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

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

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

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

16 (f) "PANDEMIC DISEASE" MEANS AN EPIDEMIC DISEASE, AS DEFINED
17 IN SECTION 25-1.5-102 (1)(a)(III), THAT HAS SPREAD OVER MULTIPLE
18 COUNTRIES OR CONTINENTS.

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

23 (I) A PHYSICAL, INTELLECTUAL, BEHAVIORAL, OR COGNITIVE
24 DISABILITY;

25 (II) DEAFNESS, BEING HARD OF HEARING, OR OTHER
26 COMMUNICATION BARRIERS;

27 (III) BLINDNESS;

1 (IV) AUTISM SPECTRUM DISORDER; OR

2 (V) DEMENTIA.

3 **SECTION 2. Safety clause.** The general assembly hereby finds,

4 determines, and declares that this act is necessary for the immediate

5 preservation of the public peace, health, or safety.