

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 987 In-person Visitation
SPONSOR(S): Health & Human Services Committee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Facilities Subcommittee	17 Y, 0 N, As CS	Guzzo	Lloyd
2) Children, Families & Seniors Subcommittee	14 Y, 0 N	Guzzo	Brazzell
3) Health & Human Services Committee	15 Y, 2 N, As CS	Guzzo	Calamas

SUMMARY ANALYSIS

Due to the COVID-19 pandemic, from March 2020, to March 2021, residents of 11 different facility types in Florida were not allowed to receive visitors. The effects of social isolation and loneliness are known to be very harmful to older adults. According to the Centers for Disease Control and Prevention, social isolation significantly increases the risk of premature death from all causes.

To protect Florida's most vulnerable residents from the effects of social isolation, the bill allows a resident of an intermediate care facility for the developmentally disabled (ICFDD), nursing home, assisted living facility (ALF), hospital, or hospice to designate an essential caregiver who must be allowed in-person visitation for at least two hours per day regardless of the facility's visiting hours or any other restriction on visitation. An essential caregiver can be a family member, friend, guardian, or other individual.

The bill creates uniform visitation rights for visitors of ICFDDs, nursing homes, ALFs, hospitals and hospices. The bill requires facilities to establish visitation policies and procedures, which must address: infection control and education; screening, personal protective equipment, and other infection control protocols for visitors; permissible length of visits and number of visitors, which must meet or exceed the current standards for nursing homes and ALFs; and designation of a person responsible for ensuring that staff adhere to the policies and procedures.

The visitation policies and procedures must allow in-person visitation, unless the patient objects, when a resident, client, or patient:

- Is in an end-of-life situation;
- Was living with his or her family before recently being admitted to the provider's facility is struggling with the change in environment and lack of physical family support;
- Is making one or more major medical decisions;
- Is experiencing emotional distress, or grieving the loss of a friend or family member who recently died;
- Needs cueing or encouragement to eat or drink that was previously provided by a family member or caregiver, and the client is experiencing weight loss or dehydration;
- Used to talk and interact with others is experiencing emotional distress or is seldom speaking; and
- Is receiving pediatric care.

The policies and procedures for hospitals must allow in-person visitation for childbirth, including labor and delivery.

The bill authorizes a provider to suspend in-person visitation for a specific visitor if the visitor violates the provider's policies and procedures. It also requires providers to submit their visitation policies and procedures to AHCA and to make them available for review upon a request by AHCA at any time.

The bill requires providers to make their visitation policies and procedures available on its website within 24 hours of establishing such policies and procedures. It also requires AHCA to explain visitation requirements on a stand-alone page on its website, which must include a link to AHCA's online complaint portal for individuals to submit complaints.

The bill has no fiscal impact on state or local government.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The COVID-19 Pandemic

The novel human coronavirus disease 2019 (COVID-19) was first reported in Wuhan, China, in December of 2019, when dozens of cases of pneumonia of unknown etiology were first reported. By early January, 2020, Chinese authorities identified a novel coronavirus as the cause of the outbreak. Shortly thereafter, the first cases of COVID-19—officially named by the World Health Organization (WHO) on February 11, 2020—were detected in Japan and Thailand. On January 20, 2020, the U.S. Centers for Disease Control and Prevention confirmed the first case of COVID-19 in the United States appearing in Washington State. On January 31, 2020, the U.S. Secretary of Health and Human services declared COVID-19 a public health emergency and on March 11, 2020, the WHO declared COVID-19 a pandemic.¹

On March 1, 2020, Florida's Surgeon General declared a public health emergency.² On March 9, 2020, the Governor issued an executive order to declare a state of emergency and delegate certain powers to the Director of the Division of Emergency Management (DEM), including the ability to restrict visitation in certain health care and long-term care facilities.³

Visitation Restrictions During COVID-19

On March 15, 2020, DEM issued an emergency order to require certain facilities to prohibit the entry of any individual except in specified circumstances.⁴ The emergency order applied to the following facility types:

- Nursing homes;
- Assisted living facilities;
- Intermediate care facilities for the developmentally disabled;
- Transitional living facilities;
- Adult mental health and treatment facilities;
- Adult forensic facilities;
- Civil facilities;
- Adult family care homes;
- Group homes;
- Homes for special services; and
- Long-term care hospitals.⁵

The emergency order authorized the following individuals to enter a facility:

¹ Centers for Disease Control and Prevention, *COVID-19 Timeline*, David J. Spencer CDC Museum: In Association With the Smithsonian Institution, available at <https://www.cdc.gov/museum/timeline/covid19.html> (last accessed January 24, 2022).

² Florida Department of Health Declaration of Public Health Emergency, March 1, 2020, available at <https://floridahealthcovid19.gov/wp-content/uploads/2020/03/declaration-of-public-health-emergency-covid-19-3.1.20.pdf> (last accessed January 24, 2022).

³ State of Florida, Office of the Governor, Executive Order Number 20-52, Emergency Management – COVID-19 Public Health Emergency (March 9, 2020), available at https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf (last accessed January 24, 2022).

⁴ State of Florida, Division of Emergency Management, Emergency Order Number 20-006 (March 15, 2020) available at <https://www.floridadisaster.org/globalassets/executive-orders/covid-19/dem-order-no.-20-006-in-re-covid-19-public-health-emergency-issued-march-15-2020.pdf> (last accessed January 24, 2022).

⁵ Id.

- Facility residents;
- Facility staff;
- Family members and friends during end of life situations;
- Hospice or palliative care workers caring for residents in end-of-life situations;
- Any individual providing necessary health care to a resident;
- Attorneys of record for residents in adult mental health facilities for court related matters if virtual or telephone means are unavailable; and
- Representatives of the state and federal government seeking entry as part of their official duties, including, but not limited to, the Long-Term Care Ombudsman program, representatives of the Department of Children and Families, the Department of Health, the Department of Elderly Affairs, the Agency for Health Care Administration, the Agency for Persons with Disabilities (APD), protection and advocacy organizations for individuals with developmental disabilities, the Office of the Attorney General, any law enforcement officer, and any emergency medical personnel.⁶

Further, the emergency order prohibited any of the above individuals from entering a facility if they failed to meet certain screening criteria, including:

- Being infected with COVID-19 without having two consecutive negative test results separated by 24 hours;
- Showing signs or symptoms of, or disclosing the presence of a respiratory infection, including cough, fever, shortness of breath or sore throat;
- Being in contact with any person known to be infected with COVID-19, who has not tested negative within the past 14 days.⁷

The emergency order was extended on May 18, 2020.⁸ On September 1, 2020, DEM extended the order again and modified it to allow visitation by essential caregivers⁹ and compassionate care visitors¹⁰ under certain circumstances.¹¹ On October 22, 2020, DEM extended the order for a second time and modified it to allow general visitors under certain circumstances.¹² Finally, on March 22, 2021, DEM rescinded the previous executive orders that prohibited visitation and instead required all affected facilities to maintain visitation and infection control policies in accordance with all state and federal laws.¹³

Post-COVID-19 Visitation Reform in Other States

The visitation restrictions imposed on different types of long-term care facilities across the nation, while necessary for the overall wellbeing of those residents, still had negative effects on the residents and their families. A recent study concluded that when implementing visiting restrictions in health care

⁶ Id.

⁷ Id.

⁸ State of Florida, Division of Emergency Management, Emergency Order Number 20-007 (May 18, 2020), available at <https://www.floridadisaster.org/globalassets/executive-orders/covid-19/dem-order-no.-20-007-in-re-covif-19-public-health-emergency-issued-may-18-2020.pdf> (last accessed January 24, 2022).

⁹ Essential caregivers are those who have been given consent by the resident or his or her representative to provide services and/or assistance with activities of daily living to help maintain or improve the quality of care or quality of life for a facility resident. Essential caregivers include persons who provided services before the pandemic and those who request to provide services.

¹⁰ Compassionate care visitors provide emotional support to help a resident deal with a difficult transition or loss, upsetting event, or end-of-life. Compassionate care visitors maybe allowed entry into facilities on a limited basis for these specific purposes.

¹¹ State of Florida, Division of Emergency Management, Emergency Order Number 20-009 (September 1, 2020), available at <https://www.floridadisaster.org/globalassets/covid19/dem-order-20-009-signed.pdf> (last accessed January 24, 2022).

¹² State of Florida, Division of Emergency Management, Emergency Order Number 20-011 (October 22, 2020), available at <https://www.floridadisaster.org/globalassets/executive-orders/covid-19/dem-order-no.-20-011-in-re-covid-19-public-health-emergency-issued-october-22-2020.pdf> (last accessed January 24, 2022).

¹³ State of Florida, Division of Emergency Management, Emergency Order Number 21-001 (March 22, 2021), available at https://ahca.myflorida.com/docs/DEM_Emergency_Order_21-001.pdf (last accessed January 24, 2022).

services, decision makers and nurses need to be aware of their potential negative effects and adapt the provision of care to compensate for such effects.¹⁴

Several states have recently passed legislation to find a common ground between protecting residents of long-term care facilities and over-protecting them.

Alabama

Requires health care facilities, including nursing homes, to allow at least one caregiver or visitor to visit each patient or resident during a public health emergency.¹⁵

Connecticut,¹⁶ Indiana,¹⁷ North Dakota,¹⁸ Oklahoma,¹⁹ and Texas²⁰

Allow long-term care facility residents to designate essential support persons who may visit and support their physical, emotional, psychological, and socialization needs.

New Jersey

Requires each long-term care facility to adopt and institute a written isolation prevention plan and have appropriate technology, staff, and other capabilities in place to prevent the facility's resident from becoming isolated during public emergencies.²¹

South Dakota

Allows residents of an ALF to receive visitors of their choosing, at the time of their choosing, provided the visitation does not impose upon the rights of another resident.²²

Intermediate Care Facilities for the Developmentally Disabled

An intermediate care facility for the developmentally disabled (ICFDD) provides institutional care for individuals with developmental disabilities. A developmental disability is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.²³

ICFDDs are licensed and regulated by the Agency for Health Care Administration (AHCA) under Part VIII of ch. 400, F.S., and Chapter 59A-26, F.A.C. ICFDDs provide the following services: nursing services, activity services, dental services, dietary services, pharmacy services, physician services, rehabilitative care services, room/bed and maintenance services and social services.²⁴ ICFDD services are only covered by the Medicaid program. Individuals who have a developmental disability and who meet Medicaid eligibility requirements may receive services in an ICFDD.

¹⁴ Karen Hugelius, Nahoko Harada, Miki Marutani, *Consequences of Visiting Restrictions During the COVID-19 Pandemic: An Integrative Review*, International Journal of Nursing Studies, vol. 121 (September 2021), available at <https://www.sciencedirect.com/science/article/pii/S0020748921001474> (last accessed January 24, 2022).

¹⁵ 2021-470, § 1, eff. 5/18/2021.

¹⁶ Conn. Gen. Stat. § 31-NEW-Connecticut Essential Workers COVID-19 Assistance Program and Fund Established.

¹⁷ Indiana Public Law 142 (April 29, 2021).

¹⁸ N.D. Cent. Code § 50-10.3 (2021).

¹⁹ Oklahoma HB 2566-2021 Legislative Session, enacted April 27, 2021.

²⁰ Texas Senate Joint Resolution 19-2021 Legislative Session, filed with the Secretary of State June 1, 2021.

²¹ New Jersey P.L. 2020, c. 113.

²² South Dakota, 2021 H.J. 570.

²³ See s. 393.063(12), F.S.

²⁴ Agency for Health Care Administration, *Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/DD) Services*, available at: https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/behavioral_health_coverage/bhfu/Intermediate_Care.shtml (last accessed January 22, 2022).

There are also two public ICF/DDs known as developmental disabilities centers that are operated by APD — Sunland in Marianna, and Tacachale in Gainesville.

As of December 21, 2021, there are 104 licensed ICFDDs in Florida with a total of 2,806 beds.²⁵

ICFDD Visitation Requirements

Florida law requires ICFDDs to ensure that all residents of ICFDDs have an unrestricted right to visitation, subject to reasonable rules of the facility.²⁶

The Centers for Medicare and Medicaid Services (CMS) conditions of participation require ICFDDs to promote visits by individuals with a relationship to the client and promote visits by parents or guardians to any area of the facility that provides direct client care services to the client, consistent with the rights of the client and privacy of other clients.²⁷ On June 3, 2021, CMS issued a memo to require all ICFDDs to allow indoor visitation at all times.²⁸

ICFDDs are not currently required to establish a visitation schedule to allow visitation for any period of time and visitation logs are not required. Currently, ICFDDs are not required to implement safety protocols relating to resident visitation.

ICFDD Fines and Penalties

APD is authorized to revoke or suspend a license of an ICFDD or impose an administrative fine on a facility of up to \$1,000 per day for failure to comply any of the requirements in ch. 393, F.S. The aggregate amount of any fine may not be more than \$10,000.²⁹ AHCA is also authorized to impose an immediate moratorium or emergency suspension on an ICFDD for any condition that poses a threat to the health, safety, or welfare of a client.³⁰

Nursing Homes

Nursing homes provide 24 hour a day care, case management, health monitoring, personal care, nutritional meals and special diets, physical, occupational, and speech therapy, social activities, and respite care for those who are ill or physically infirm. Nursing homes are regulated by the Agency for Health Care Administration (AHCA) under the Health Care Licensing Procedures Act (Act) in part II of chapter 408, F.S., which provides licensure requirements for all provider types regulated by AHCA, and part II of chapter 400, F.S., which includes unique provisions for nursing home licensure beyond the uniform criteria in the Act.

As of December 21, 2021, there are 705 licensed nursing homes in Florida with a total of 85,778 beds.³¹

Nursing Home Visitation Requirements

Florida law requires nursing homes to adopt the residents' bill of rights, which provides the rights and responsibilities of residents, and requires nursing homes to treat such residents in accordance with its provisions.³² Nursing homes must provide a copy of the resident's bill of rights to each resident or the

²⁵ Florida Agency for Health Care Administration, Agency Analysis of 2022 HB 987 (December 27, 2021).

²⁶ S. 393.13(4)(a)3., F.S.

²⁷ 42 C.F.R. § 483.420

²⁸ Centers for Medicare & Medicaid Services, memorandum on visitation at intermediate care facilities for individuals with intellectual disabilities and Psychiatric Residential Treatment Facilities - Coronavirus Disease -2019, ref: QSO-21-14-ICF/IID & PRTF REVISED June 3, 2021, available at <https://www.cms.gov/files/document/qso-21-14-icfiid-prtf-revised-06032021.pdf> (last accessed January 24, 2022).

²⁹ S. 393.0673(1), F.S.

³⁰ S. 408.814, F.S.

³¹ *Supra* at note 25.

³² S. 400.022(1), F.S.

resident's legal representative at or before the resident's admission to the facility.³³ The residents' bill of rights includes, among other things, the right to visit with any person during visiting hours.³⁴

Nursing homes are not currently required to establish a visitation schedule to allow visitation for any period of time and visitation logs are not required. Currently, nursing homes are not required to implement safety protocols relating to resident visitation.

On November 12, 2021, CMS issued a memo requiring nursing homes that are federally certified to accept Medicare or Medicaid to allow indoor visitation at all times and for all residents.³⁵

Nursing Home Fines and Penalties

AHCA is authorized to deny, revoke, or suspend the license of a nursing home, or impose an administrative fine on a nursing home of up to \$500 per day for each violation of any provision of part II of ch. 400, F.S. or applicable rules. The aggregate amount of any fine may not be more than \$5,000.³⁶ AHCA is also authorized to impose an immediate moratorium or emergency suspension on a nursing home for any condition that poses a threat to the health, safety, or welfare of a client.³⁷

Assisted Living Facilities

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.³⁸ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.³⁹ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.⁴⁰ ALFs are licensed and regulated by AHCA under part I of ch. 429, F.S., and part II of ch. 408, F.S., and rule 59A-36, F.A.C.

Facilities are required to provide services in a manner that reduces the risk of transmission of infectious diseases.⁴¹ ALFs are also required to include in their admission packet, written infection control policies and procedures, detailing the sanitation methods and other precautions used to combat the spread of infectious diseases.⁴² If any staff member of an ALF has, or is suspected of having, a communicable disease, the facility is required to prohibit the staff member from performing their duties until a written statement is submitted from a health care provider indicating that the individual does not constitute a risk of transmitting a communicable disease.⁴³

As of December 21, 2021, there are 3,139 licensed ALFs in Florida with a total of 114,979 beds.⁴⁴

Assisted Living Facility Visitation Requirements

The Resident Bill of Rights prohibits an ALF from depriving an ALF resident of any civil or legal rights, benefits, or privileges guaranteed by law, the Florida Constitution, or the Constitution of the United States.⁴⁵ The Resident Bill of Rights requires ALFs to ensure that every resident is provided with

³³ S. 400.022(2), F.S.

³⁴ S. 400.022(1)(b), F.S.

³⁵ Centers for Medicare & Medicaid Services, memorandum nursing home visitation, Ref: QSO-20-39-NH Revised November 12, 2021, available at <https://www.cms.gov/files/document/qso-20-39-nh-revised.pdf> (last accessed January 24, 2022).

³⁶ S. 400.121(1), F.S.

³⁷ S. 408.814, F.S.

³⁸ S. 429.02(5), F.S.

³⁹ S. 429.02(18), F.S.

⁴⁰ S. 429.02(1), F.S.

⁴¹ Rule 59A-36.007(10), F.A.C.

⁴² Rule 59A-36.007(5)(d), F.A.C.

⁴³ Rule 59A-36.010(2)2., F.A.C.

⁴⁴ *Supra* at note 25.

⁴⁵ S. 429.28, F.S.

certain enumerated rights, including the right to unrestricted private communication and visitation with any person they choose between the hours of 9 a.m. and 9 p.m.⁴⁶ Upon request, the facility is required to make provisions to extend visiting hours for caregivers and out-of-town guests, and in similar situations.⁴⁷

ALFs are not currently required to establish a visitation schedule to allow visitation for any period of time and visitation logs are not required. Currently, ALFs are not required to implement safety protocols relating to resident visitation.

ALF Fines and Penalties

Section 408.813, F.S. categorizes violations into four classes according to the nature and gravity of its probable effect on residents.

Class “I” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which AHCA determines present an imminent danger to the clients of the provider or a substantial probability that death or serious physical or emotional harm would result therefrom.⁴⁸ AHCA may impose an administrative fine of not less than \$5,000 and not exceeding \$10,000 for each class “I” violation.⁴⁹

Class “II” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which AHCA determines directly threaten the physical or emotional health, safety, or security of the clients, other than class I violations.⁵⁰ AHCA may impose an administrative fine of not less than \$1,000 and not exceeding \$5,000 for each class “II” violation.⁵¹

Class “III” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which AHCA determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations.⁵² AHCA may impose an administrative fine of up to \$500 and not more than \$1,000 for each class “III” violation.⁵³

Class “IV” violations are those conditions or occurrences related to the operation and maintenance of a provider or to required reports, forms, or documents that do not have the potential of negatively affecting clients. These are violations that AHCA determines do not threaten the health, safety, or security of clients.⁵⁴ AHCA may impose an administrative fine of up to \$100 and not more than \$200 for each violation.⁵⁵

AHCA is also authorized to impose an immediate moratorium or emergency suspension on an ALF for any condition that poses a threat to the health, safety, or welfare of a client.⁵⁶

Hospitals

Hospitals are regulated by AHCA under chapter 395, F.S., and the general licensure provisions of part II, of chapter 408, F.S. Hospitals offer a range of health care services with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care.⁵⁷ Hospitals must make regularly

⁴⁶ S. 429.28(1)(d), F.S.

⁴⁷ Id.

⁴⁸ S. 408.813(2)(a), F.S.

⁴⁹ S. 429.19(2)(a), F.S.

⁵⁰ S. 408.813(2)(b), F.S.

⁵¹ S. 429.19(2)(b), F.S.

⁵² S. 408.813(2)(c), F.S.

⁵³ S. 429.19(2)(c), F.S.

⁵⁴ S. 408.813(2)(d), F.S.

⁵⁵ S. 429.19(2)(d), F.S.

⁵⁶ S. 408.814, F.S.

⁵⁷ S.395.002(13), F.S.

available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment.⁵⁸

A specialty hospital, in addition to providing the same services as general hospitals, provides other services, including:

- A range of medical services restricted to a defined age or gender group;
- A restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical or psychiatric illnesses or disorders; or
- Intensive residential treatment programs for children and adolescents.⁵⁹

Section 395.1055, F.S., authorizes AHCA to adopt rules for hospitals. Separate standards may be provided for general and specialty hospitals.⁶⁰ The rules for general and specialty hospitals must include minimum standards to ensure:

- A sufficient number of qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care;
- Infection control, housekeeping, sanitary conditions, and medical record procedures are established and implemented to adequately protect patients;
- A comprehensive emergency management plan is prepared and updated annually;
- Licensed facilities are established, organized, and operated consistent with established standards and rules; and
- Licensed facility beds conform to minimum space, equipment, and furnishing standards.⁶¹

Hospital Visitation Requirements

Hospitals are not currently required to establish a visitation schedule to allow visitation for any period of time and visitation logs are not required. Currently, hospitals are not required to implement safety protocols relating to resident visitation.

Hospital Fines and Penalties

AHCA is authorized to deny, revoke, or suspend the license of a hospital, or impose an administrative fine on a hospital of up to \$1,000 per day for each violation of any provision of part I of ch. 395, F.S., part II of ch. 408, F.S., or applicable rules.⁶² AHCA is also authorized to impose an immediate moratorium or emergency suspension on a hospital for any condition that poses a threat to the health, safety, or welfare of a client.⁶³

Hospices

A hospice is a centrally administered corporation or a limited liability company that provides a continuum of palliative care for terminally ill patients.⁶⁴ Hospices are required to provide a continuum of services that afford the patient and their family a range of services which can be tailored to the specific needs and preferences of the patient at any point in time, including the following core services: nursing; social work; pastoral and counseling; dietary counseling and bereavement.⁶⁵ Hospice care and services may be provided in a patient's home, a freestanding hospice facility, or in an ALF, adult family-care home, or nursing home.⁶⁶

⁵⁸ Id.

⁵⁹ S. 395.002(28), F.S.

⁶⁰ S. 395.1055(2), F.S.

⁶¹ S. 395.1055(1), F.S.

⁶² S. 395.003(7), F.S., and s. 395.1065(2)(a), F.S.

⁶³ S. 408.814, F.S.

⁶⁴ S. 400.601(3), F.S.

⁶⁵ S. 400.609, F.S.

⁶⁶ Id.

Hospice Visitation Requirements

Hospices services must be available 24 hours a day, 7 days a week, which includes supportive care for a patient's family.⁶⁷ Hospices are not currently required to establish a visitation schedule to allow visitation for any period of time and visitation logs are not required. Currently, hospices are not required to implement safety protocols relating to resident visitation.

Hospice Fines and Penalties

AHCA is authorized to deny, revoke, or suspend the license of a hospice, or impose an administrative fine on a hospice of up to \$1,000 per violation of any provision of part IV of ch. 400, F.S., part II of ch. 408, F.S., or applicable rules.⁶⁸ AHCA is also authorized to impose an immediate moratorium or emergency suspension on a hospice for any condition that poses a threat to the health, safety, or welfare of a client.⁶⁹

Effect of the Bill

The bill also a requires ICFDDs, nursing homes, ALFs, hospitals and hospices to allow a resident, client, or patient to designate an essential caregiver who must be allowed in-person visitation for at least two hours per day regardless of the facility's visiting hours or any other restriction on visitation. An essential caregiver may be a family member, friend, guardian, or other individual designated by the resident, client, or patient.

The bill creates uniform visitation rights for visitors of ICFDDs, nursing homes, ALFs, hospitals and hospices. The bill requires facilities to establish visitation policies and procedures, which must address:

- Infection control and education;
- Screening, personal protective equipment, and other infection control protocols for visitors;
- Permissible length of visits and number of visitors, which must meet or exceed the current standards for nursing homes and ALFs; and
- Designation of a person responsible for ensuring that staff adhere to the policies and procedures.

The visitation policies and procedures must allow in-person visitation, unless the patient objects, when a resident, client, or patient:

- Is in an end-of-life situation;
- Was living with his or her family before recently being admitted to the provider's facility is struggling with the change in environment and lack of physical family support;
- Is making one or more major medical decisions;
- Is experiencing emotional distress, or grieving the loss of a friend or family member who recently died;
- Needs cueing or encouragement to eat or drink that was previously provided by a family member or caregiver, and the client is experiencing weight loss or dehydration;
- Used to talk and interact with others is experiencing emotional distress, is seldom speaking, or is crying more frequently; and
- Is receiving pediatric care.

The visitation policies and procedures for hospitals must allow in-person visitation for childbirth, including labor and delivery.

⁶⁷ Id.

⁶⁸ S. 400.607, F.S.

⁶⁹ S. 408.814, F.S.

The bill authorizes the visitation policies and procedures to require a visitor to agree in writing to follow the provider's policies and procedures and a provider may suspend in-person visitation for a specific visitor if the visitor violates the provider's policies and procedures.

The bill requires providers to submit their visitation policies and procedures to AHCA when applying for initial licensure, licensure renewal, or change of ownership and requires providers to make their policies and procedures available for review upon a request by AHCA at any time.

The bill requires providers to make their visitation policies and procedures available on its website within 24 hours of establishing such policies and procedures.

The bill requires AHCA to explain visitation requirements on a stand-alone page on its website, which must include a link to AHCA's online complaint portal for individuals to submit complaints.

The bill is effective upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Creates s. 408.823, F.S., relating to in-person visitation.

Section 2: Directs the Division of Law Revision to replace the phrase "30 days after the effective date of this act" wherever it occurs in this act with the date 30 days after this act become a law.

Section 3: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rule-making authority to AHCA to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES