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LC002261

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO HEALTH AND SAFETY - LICENSING OF HEALTH CARE FACILITIES

Introduced By: Senators de la Cruz, Algieri, Rogers, Paolino, and Raptakis

Date Introduced: March 04, 2021

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17-19.3 of the General Laws in Chapter 23-17 entitled "Licensing
2 of Healthcare Facilities" is hereby amended to read as follows:

3 **23-17-19.3. Patients' visitation rights.**

4 (a) All health care providers as licensed under the provisions of chapter 29 or 37 of title 5
5 and all health care facilities as defined in § 23-17-2(8) shall be required to note in their patients'
6 permanent medical records the name of individual(s) not legally related by blood or marriage to
7 the patient who the patient wishes to be considered as immediate family member(s), for the purpose
8 of granting extended visitation rights to the individual(s), so the individual(s) may visit the patient
9 while he or she is receiving inpatient health care services in a health care facility.

10 (b) A patient choosing to designate individual(s) as immediate family members for the
11 purpose of extending visitation rights may choose up to five (5) individuals and do so either verbally
12 or in writing. This designation shall be made only by the patient and can be initiated and/or
13 rescinded by the patient at any time, either prior to, during, or subsequent to an inpatient stay at the
14 health care facility. During any public health emergency or other state of emergency, where
15 visitation rights are suspended, a patient shall be allowed to designate one person to safely visit the
16 patient.

17 (c) The full names of designated individual(s), along with their relationship to the patient,
18 shall be recorded in the patient's permanent medical records, both at the inpatient health care facility
19 and with the patient's primary care physician.

1 (d) In the event the patient has not had the opportunity to have this designation recorded in
2 his or her medical records, a signed statement in the patient's own handwriting attesting to the
3 designation of the individual(s) as an immediate family member for the purpose of extending
4 visitation rights during the provision of health care services in an inpatient health care facility,
5 along with their relationship to the individual(s) shall meet all the requirements of this chapter. The
6 patient's signature on a signed statement shall be witnessed by two (2) individuals, neither of whom
7 can be the designated individual(s). In the event a signed statement is not available, those
8 designated as agents on a durable power of attorney for health care form shall be allowed visitation
9 privileges.

10 (e) This chapter shall not be construed to prohibit legally recognized members of the
11 patient's family from visiting the patient if they have not been so designated through the provisions
12 of this chapter. No patient shall be required to designate individual(s) under the provisions of this
13 chapter.

14 SECTION 2. Section 23-17.5-12 of the General Laws in Chapter 23-17.5 entitled "Rights
15 of Nursing Home Patients" is hereby amended to read as follows:

16 **23-17.5-12. Visitors.**

17 (a) Patients may associate and communicate privately with persons of their choice and shall
18 be allowed freedom and privacy in sending and receiving mail.

19 (b) Posted reasonable visiting hours must be maintained in each home, with a minimum of
20 four (4) hours daily.

21 (c) The facility shall permit the long term care ombudsman of the department of elderly
22 affairs, and his or her designees as certified by that department, whose purposes include rendering
23 assistance without charge to nursing home patients, to have access to the facility and its patients, if
24 there is neither commercial purpose nor affect to the access, in order to:

25 (1) Visit, talk with, and make personal, social, and legal services available to all patients.

26 (2) Inform patients of their rights and entitlements, and their corresponding obligations,
27 under federal and state laws by means of distribution of educational materials and discussion in
28 groups and with individual patients.

29 (3) Assist patients in pursuing their legal rights regarding claims for public assistance,
30 medical assistance, and social security benefits, as well as in all matters in which patients are
31 aggrieved.

32 (4) Have access to all areas of the facility accessible to patients except the immediate living
33 area of a patient who objects to the access.

34 (5) Engage in all other methods of assisting, advising, and representing patients so as to

1 extend to them full enjoyment of their rights.

2 (d) Any ombudsman, as certified by the department of elderly affairs, shall have access at
3 any time. Individual patients shall have the complete right to terminate or deny any visit by persons
4 having access pursuant to this section. Communications between a patient and persons having
5 access pursuant to this section shall be confidential, unless the patient authorizes the release of the
6 information. The communication shall be conducted in privacy. The state shall protect and hold
7 harmless the long term care ombudsman, and his or her designees, from financial loss and expense,
8 including legal fees and costs, if any, arising out of any claim, demand or suit for damages resulting
9 from acts or omissions committed in the discharge of his or her duties and within the scope of his
10 or her employment which may constitute negligence, but which acts are not wanton, malicious or
11 grossly negligent, as determined by a court of competent jurisdiction.

12 (e) No patient shall be punished or harassed by the facility or by its agents or employees
13 because of the patient's effort to avail himself or herself of his or her rights, or because of the
14 activities of others having access pursuant to this section.

15 (f) During any public health emergency or other state of emergency, where visitation rights
16 are suspended, a patient shall be allowed to designate one person to safely visit the patient.

17 SECTION 3. Section 40.1-24.5-5 of the General Laws in Chapter 40.1-24.5 entitled
18 "Community Residences" is hereby amended to read as follows:

19 **40.1-24.5-5. Absolute rights of residents.**

20 No resident admitted to any community residence shall be deprived of any constitutional,
21 civil, or legal right, solely by reason of admission. Among others, each resident shall be entitled to
22 the following rights without limitation:

23 (1) To privacy and dignity;

24 (2) To civil service or merit rating or ranking and appointment;

25 (3) Those relating to the granting, forfeiture, or denial of a license, permit privilege, or
26 benefit pursuant to any law;

27 (4) To attend or not attend religious services;

28 (5) To be visited privately at all reasonable times by one's personal physician, attorney,
29 clergyperson, and the mental health advocate;

30 (6) To vote and participate in political activity, including reasonable assistance when
31 desired in registering and voting;

32 (7) To be employed at a gainful occupation insofar as the resident's condition permits. No
33 resident shall be required to perform labor that involves the essential operation and maintenance of
34 the community residence or program or the regular supervision or care of other residents. Residents

1 may be required to perform labor involving normal housekeeping and home-maintenance functions
2 as documented in their individualized service plan or as delineated in the community residents rules
3 and regulations;

4 (8) To communicate by sealed mail or otherwise with persons of one's choosing;

5 (9) To participate in the development of individualized service plan;

6 (10) To have access to his or her individualized service plan and other medical, social,
7 financial, vocational, psychiatric, or other information included in the resident's file maintained by
8 the community residence;

9 (11) To not be the subject to experimental research without his or her prior written and
10 informed consent;

11 (12) To be free from verbal and physical abuse;

12 (13) To register an alleged violation of resident's rights through the established grievance
13 procedure as delineated in § 40.1-24.5-8; and

14 (14) To have access to the mental health advocate upon request and to have assistance
15 when desired and necessary to implement this right.

16 (15) During any public health emergency or other state of emergency, where visitation
17 rights are suspended, a resident shall be allowed to designate one person to safely visit the resident.

18 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would allow hospital and nursing home patients and residents of group homes to
2 designate one person to safely visit during any public health emergency or other state of emergency,
3 where visitation rights are suspended.

4 This act would take effect upon passage.

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