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Legislative Document

No. 1601

S.P. 632

In Senate, April 11, 2023

**An Act Regarding Visitation Policies for Long-term Care Facilities,
Hospice Providers and Hospitals**

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator STEWART of Aroostook.
Cosponsored by Representative FAULKINGHAM of Winter Harbor and
Representative: LIBBY of Auburn.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1711-D, sub-§1-A** is enacted to read:

3 **1-A. Additional visitation requirements.** In addition to the requirements in
4 subsection 1, a hospital must adopt a policy that allows for in-person visitation by January
5 1, 2024, as follows.

6 A. Unless the patient objects, in-person visitation must be allowed in the following
7 circumstances:

8 (1) An end-of-life situation;

9 (2) Childbirth, including labor and delivery; and

10 (3) When the patient is a minor.

11 B. The policy must allow for the patient to designate a person who is a family member,
12 friend, guardian or other individual as a designated visitor who must be allowed to visit
13 the patient for at least 2 hours daily in addition to any other visitors.

14 C. The policy must, at a minimum, include infection control and education policies for
15 visitors; screening, personal protective equipment and other infection control protocols
16 for visitors; permissible length of visits and numbers of visitors; and designation of a
17 person responsible for ensuring that staff adhere to the policies and procedures. Safety-
18 related policies may not be more stringent than those established for the hospital's staff
19 and may not require visitors or designated visitors to submit proof of any vaccination
20 or immunization. The policy must allow consensual physical contact between a patient
21 and visitors.

22 D. The policy may require visitors to agree in writing to follow the hospital's policy.
23 A hospital may suspend in-person visitation of any visitor if the visitor violates the
24 policy.

25 E. The hospital must provide the visitation policy to the department when applying for
26 initial licensure, licensure renewal or change of ownership. The policy must be made
27 available to the department for review at any time, upon request.

28 F. The hospital must post its visitation policy on its publicly accessible website.

29 G. The department shall establish a process for any member of the public to report
30 complaints against the hospital.

31 **Sec. 2. 22 MRSA §1711-D, sub-§2, ¶A,** as enacted by PL 2001, c. 378, §1, is
32 repealed.

33 **Sec. 3. 22 MRSA §7922, sub-§1-A** is enacted to read:

34 **1-A. Designated visitor.** "Designated visitor" means a person chosen by a resident of
35 a long-term care facility or a hospice who is a family member, friend, guardian or other
36 individual who is allowed to visit the long-term care facility or hospice as long as the
37 resident does not object. The designated visitor may personally provide assistance to the
38 resident with the activities of daily living as defined in section 7302, subsection 1-A, or
39 may provide emotional support and company to the resident.

40 **Sec. 4. 22 MRSA §7922, sub-§1-B** is enacted to read:

1 **1-B. Hospice.** "Hospice" means a hospice provider licensed under chapter 1681.

2 **Sec. 5. 22 MRSA §7922, sub-§2,** as enacted by PL 1981, c. 445, is amended to
3 read:

4 **2. Resident.** "Resident" means any person who lives in and receives services or care
5 in a long-term care facility or a hospice.

6 **Sec. 6. 22 MRSA §7926** is enacted to read:

7 **§7926. Visitation policies**

8 No later than January 1, 2024, each long-term care facility and hospice provider must
9 establish a visitation policy for visitors and designated visitors as follows.

10 **1. Circumstances for in-person visit requirements.** The policy must allow in-person
11 visitation in all of the following circumstances unless the resident objects:

12 A. End-of-life situations;

13 B. A resident who was living with family before being admitted to the long-term care
14 facility or hospice and is struggling with the change in environment and lack of in-
15 person family support;

16 C. A resident is making one or more major medical decisions;

17 D. A resident is experiencing emotional distress or grieving the loss of a friend or
18 family member who recently died;

19 E. A resident needs cueing or encouragement to eat or drink that was previously
20 provided by a family member or caregiver;

21 F. A resident who used to talk and interact with others is seldom speaking; and

22 G. The resident is under 18 years of age.

23 **2. Designated visitors.** In addition to a policy for in-person visitation, the policy must
24 allow for in-person visits to a resident by the resident's designated visitor for at least 2 hours
25 daily. This section does not require a designated visitor to provide necessary care to the
26 resident, and providers may not require a designated visitor to provide such care.

27 **3. Infection control and education.** The policy must, at a minimum, include infection
28 control and education policies for visitors; screening, personal protective equipment and
29 other infection control protocols for visitors; permissible length of visits and numbers of
30 visitors; and designation of a person responsible for ensuring that staff adhere to the policies
31 and procedures. Safety-related policies may not be more stringent than those established
32 for the long-term care facility or hospice's staff and may not require visitors or designated
33 visitors to submit proof of any vaccination or immunization. The policy must allow
34 consensual physical contact between a resident and visitors.

35 **4. Violations.** The policy may require visitors to agree in writing to follow the long-
36 term care facility's or hospice's policy. A long-term care facility or hospice may suspend
37 in-person visitation of any visitor if the visitor violates the long-term care facility's or
38 hospice's policy.

39 **5. Policy provided to the department.** The long-term care facility or hospice
40 provider must provide the long-term care facility's or hospice provider's visitation policy
41 to the department when applying for initial licensure, licensure renewal or change of

1 ownership. The long-term care facility or hospice provider must make the visitation policy
2 available to the department for review at any time, upon request.

3 **6. Website access.** The visitation policy must be accessible on the home page of the
4 long-term care facility or hospice provider if such a page exists. The department must also
5 explain the visitation requirements of this section on its publicly accessible website.

6 **7. Complaints.** The department shall establish a process for any member of the public
7 to report complaints against a long-term care facility or hospice.

8 **SUMMARY**

9 This bill requires long-term care facilities, hospice providers and hospitals to adopt a
10 visitation policy that is provided to the Department of Health and Human Services. The
11 policy must be adopted by January 1, 2024. The policy must permit in-person visitation in
12 certain circumstances. The policy must include infection control and education policies
13 for visitors and may not require visitors to provide proof of vaccinations. It also requires
14 the policy to allow for a resident of a facility to designate a family member, friend, guardian
15 or other person as a designated visitor that may visit in person for at least 2 hours a day in
16 addition to other visitors. The policy must be posted on the hospital's website and a long-
17 term care facility's or hospice provider's website if such a website exists. The department
18 must post information on visitation requirements on its website and establish a process for
19 the public to report complaints against providers.