

## Resident Right to Access and Visitation

<i>Date Implemented:</i>	8/28/23	<i>Date Reviewed/ Revised:</i>		<i>Reviewed/ Revised By:</i>	Erica Eckert, RN John M Dean, NHA
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### Policy:

It is the policy of this facility to support and facilitate the resident's right to receive visitors of their choosing, at the time of their choosing, subject to the resident's right to deny visitation when applicable, and in a manner that does not impose on the rights of other residents. Visitation will be person-centered, consider the residents' physical, mental, and psychosocial well-being, and support their quality of life.

*A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9769.FI shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.*

### Definition:

**“Reasonable clinical and safety restrictions”** include a facility's policies, procedures or practices that protect the health and security of all residents and staff.

### Policy Explanation and Compliance Guidelines:

1. The facility will provide immediate access to any resident by:
  - a. Any representative of the Secretary;
  - b. Any representative of the State;
  - c. Any representative of the Office of the State Long Term Care Ombudsman;
  - d. The resident's individual physician;
  - e. Any representative of the agency responsible for the protection and advocacy system for the developmentally disabled individuals;
  - f. Any representative of the agency responsible for the protection and advocacy system for individuals with mental disorder;
  - g. The resident representative.
  - h. In accordance with R.S. 40:2005.1, hospitals, nursing homes, and adult residential care homes may allow members of the clergy to visit patients or residents during a public health emergency whenever a patient or resident or legal or designated representative of the patient or resident requests the visit. Special consideration shall be given to patients or residents receiving end of life care.
  - i. In accordance with R.S.40:2009.4, licensed nursing facilities may allow immediate family members and other designated persons to visit residents during a public health emergency whenever a resident or the legal or designated representative of the resident requests the visit. Special consideration shall be given to residents receiving end of life care.
  - j. A nursing facility's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

A nursing facility's policy and procedure on clergy visitation shall, at a minimum, require the following: LDH 9769

a. that the nursing facility give special consideration and priority for clergy

visitation to residents receiving end-of-life care;

b. that a clergy member will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that a clergy member not be allowed to visit a nursing facility resident if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

d. that a clergy member not be allowed to visit a nursing facility resident if the clergy member refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions; and

e. that a clergy member be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to clergy members.

f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency.

2. The facility will provide immediate access to a resident by immediate family and other relatives of the resident, subject to the resident's right to deny or withdraw consent at the time. Resident's family members are not subject to visiting hour limitations or other restrictions not imposed by the resident, with the exception of reasonable clinical and safety restrictions, placed by the facility according to CDC guidelines, and/or local health department recommendations. *(LDH 9771)*:

#### 1. Visitation by Immediate Family Members and Other Designated Persons during a Declared Public Health Emergency

A. A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9771.BE shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.

B. Nursing facilities shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in nursing facilities during a declared PHE.

C. Nursing facilities shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in a nursing facility during a declared PHE.

D. The provisions of this Section regarding visitation by immediate family members of the resident and other designated persons shall apply to all nursing facilities licensed by the Department of Health.

E. Subject to the requirements of §9771.A-C, each nursing facility shall allow immediate family members and other designated persons to visit a resident of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with

immediate family members and other designated persons, subject to the following conditions and requirements:

1. Each nursing facility shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The nursing facility shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.
2. A nursing facility's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.
3. A nursing facility's policy and procedure on visitation by immediate family members and other designated persons shall, at a minimum, require the following:
  - a. that the nursing facility give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;
  - b. that visitation by immediate family members of the residents and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;
  - c. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;
  - d. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if the immediate family member or other designated person refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions;
  - e. that immediate family members and other designated persons be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to immediate family members and other designated persons;
  - f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE;
  - g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared emergency
  - h. that includes provisions for off-site visitation, allowing an immediate family member or other designated person to visit a nursing facility resident away from the facility campus.
3. If familial visits infringe upon the rights of other residents (e.g. family visits late at night when the resident's roommate is already asleep), staff will find a location other than the resident's room for visits.

4. The facility will provide immediate access to a resident by others who are visiting with the consent of the resident, subject to reasonable clinical and safety restrictions and the resident's right to deny or withdraw consent at any time.
5. The facility will provide reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. Facility staff will provide space and privacy for these visits.
6. The facility will inform each resident and/or resident representative of his or her visitation rights and related facility policies and procedures, including any clinical or safety restriction or limitation of such rights, in a manner he or she understands.
7. The facility will inform each resident of the right, subject to his or her consent, to receive the visitors whom he or she designates as well as deny visitation, including but not limited to:
  - a. A spouse, including a same-sex spouse
  - b. A domestic partner, including a same-sex domestic partner
  - c. Another family member
  - d. Adoptive/foster family members
  - e. A friend
8. The facility will not restrict, limit, or otherwise deny visitation privileges based on race, color, national origin, religion, sex, gender identity, sexual orientation, or disability.
9. Residents have the right to define their family. During the admissions process, facility staff will discuss this issue with the resident. If the resident is unable to express or communicate whom they identify as family, facility staff will discuss this with the resident's representative.
10. The Office of the State Long-Term Care Ombudsman will be given access to examine a resident's medical, social, and administrative records in accordance with State law.
11. The facility will ensure all visitors enjoy full and equal visitation privileges consistent with resident preferences.
12. Provisions to allow any close family member of a resident of an ICF/DD to visit any resident during any state of public health emergency declared in accordance with R.S. 29:766 or to address the infectious respiratory disease known as COVID-19. The rules shall include but not limited to the following:
  - A. Minimum requirements for visitation, including length of visit, location of the visit, and the right to consensual nonsexual physical contact such as hand holding or hugging.
  - B. Requirements for visitors, including health screenings, testing, and personal protective equipment. However, the rules may not require visitors to submit proof of any vaccination or immunization.
13. Reasonable clinical and safety restrictions that protect the health and security of all residents and staff, which may include, but are not limited to:
  - a. Placing visitation restrictions to prevent community-associated infection or communicable disease transmission to one or more residents. A residents risk factors for infection (e.g. immunocompromised) or current health state (e.g. end of life care) will be considered when restricting visitors.
  - b. Visitors with signs and symptoms of a transmissible infection (e.g., a visitor is febrile and exhibiting signs and symptoms of an influenza-like illness) will be asked to defer visitation until they are no longer potentially infectious (e.g., 24 hours after resolution outbreak of fever without antipyretic medication), or according to CMS or CDC guidelines, and/or local health department recommendations.
  - c. Keeping the facility locked at night with a system in place for allowing visitors approved by the resident.

- d. Denying access or providing limited and supervised access to a visitor if that individual has been found to be abusing, exploiting, or coercing a resident until an investigation into the allegation has been completed or has been found to be abusing, exploiting, or coercing a resident.
- e. Denying access to a visitor who has been found to have been committing criminal acts such as theft.
- f. Denying access to visitors who are inebriated and disruptive.
- g. Denying access or providing supervised visitation to individuals who have a history of bringing illegal substances into the facility which places residents' health and safety at risk.
  - i. If the facility determines illegal substances have been brought into the facility by a visitor, the facility will not act as an arm of law enforcement. Rather, in accordance with state laws, these cases will be referred to local law enforcement.
  - ii. Facility staff will not conduct searches of a resident or their personal belongings, unless the resident or resident representative agrees to a voluntary search and understands the reason for the search.

**References:**

Centers for Medicare & Medicaid Services, Department of Health and Human Services. State Operations Manual (SOM): Appendix PP Guidance to Surveyors for Long Term Care Facilities. (February 2023 Revision) F563 – Right to Receive/Deny Visitors. 42 C.F.R. §483.10(f).

Centers for Medicare & Medicaid Services, Department of Health and Human Services. State Operations Manual (SOM): Appendix PP Guidance to Surveyors for Long Term Care Facilities. (February 2023 Revision) F564 – Inform of Visitation Rights/Equal Visitation privileges. 42 C.F.R. §483.10(f).