



# Understanding the New Visitation Laws for Assisted Living



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# New Visitation Laws/Rules

- Session Law 2021-145 (HB 351)  
*Clifford's Law*
- Session Law 2021-171 (SB 191)  
*The No Patient Left Alone Act*



# CLIFFORD'S LAW

HB 351

# Clifford's Law Overview

- Clifford Jernigan, a 63-year old male with the mentality of a 3-year old has been confined to a long-term care facility for the past 53 years.
- His mother visited him every week for 13 years until her death and his sister has visited him each week for 40 years.
- He had only one outside visitor, his sister, over the last year. During that time, he lost over 25 pounds. A staff member at the facility told his sister that he seemed to be mourning himself to death.

## Clifford's Law Overview

- The General Assembly noted that he represented one of many thousands of residents in nursing homes and combination homes who gravely suffered because of restricted visitation during the COVID-19 pandemic.
- The General Assembly found that it is both critical and essential for the well-being of these residents to have a minimal number and frequency of visitors and enacted "Clifford's Law."
- Signed by Governor Cooper September 10th

# Summary of Law Clifford's Law

- The Secretary shall, in consultation with licensed operators of adult care homes, including family care homes, and any other stakeholders the Secretary deems relevant, establish visitation protocols for residents of these facilities that will become effective during a disaster declaration or emergency that results in the suspension or curtailment of a facility's normal visitation policy for any reason. The visitation protocols shall provide for at least the following:
  - Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor, or if the preapproved visitor is unavailable, the preapproved alternate visitor, shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or curtailed for any reason during the declared disaster or emergency.
  - Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section.
  - Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy.

# Summary of Clifford's Law Cont'd

- Notwithstanding any of law to the contrary, the visitation protocols shall be in effect during any period of time when (i) there is a declared disaster or emergency and (ii) an adult care home, including a family care home, licensed under this Article suspends or restricts the normal visitation policy for any reason.
- By June 15, 2022, the Secretary of the Department of Health and Human Services shall implement the visitation protocols described above. At least 30 days prior to implementation of these visitation protocols, the Secretary shall submit a report summarizing the visitation protocols to the chairs of the Joint Legislative Oversight Committee on Health and Human Services.
- The first two bullet points are effective April 1, 2022. The last bullet point is effective when it becomes law.



NO PATIENT LEFT  
ALONE ACT

SB 191

# SENATE BILL 191

## *No Patient Left Alone Act*

- Ensures visitation rights for patients in most healthcare facilities during a declared disaster or emergency.
- Passed the House and Senate and was sent to the Governor for his consideration on October 8<sup>th</sup>.
- Signed by Governor Cooper on October 15<sup>th</sup>.

## SENATE BILL 191

### *No Patient Left Alone Act*

- SB 191 creates mandatory visitation rights for patients in hospitals, nursing homes, combination homes, hospice care facilities, adult care homes, special care units, and residential treatment facilities.

# SENATE BILL 191

## *No Patient Left Alone Act*

- Patients and residents in hospitals, nursing homes, combination homes, and hospice care facilities must be permitted to receive visitors to the fullest extent permitted by federal law.
- Facilities must provide notice of patient/ resident visitation rights to patients and, when possible, to family members.\*\* (see provider resources in upcoming slide)

## SENATE BILL 191

### *No Patient Left Alone Act*

- Residents of adult care homes, special care units, and residential treatment facilities must permit visitation to the greatest extent permitted by the infection control protocols under federal, state, or local law.

**SENATE BILL 191**  
*No Patient Left Alone Act*  
*Compassionate Care*

- All facilities must also allow compassionate care visits.
- A facility may require visitors to submit to health screenings and restrict a visitor who does not pass a health screen or who tests positive for an infectious disease.

## Compassionate care situations include, but are not limited to the following:

1. End-of-life situations
2. When patients who had previously been living with family struggle with the change in environment
3. When patients are grieving after a friend or family member has passed
4. When patients need cueing and encouragement with eating and drinking previously provided by family and are experiencing weight loss or dehydration, and
5. When patients experience emotional distress, are seldom speaking or crying more frequently.

## SENATE BILL 191

### *No Patient Left Alone Act*

- If any facility is found to have violated a visitation right, and fails to address that violation within 24 hours, the Department of Health and Human Services (DHHS) may issue a warning about the violation and give the facility not more than 24 hours to allow visitation.

# SENATE BILL 191

## *No Patient Left Alone Act*

- If visitation is not allowed within 24 hours, then DHHS must assess a civil penalty not less than \$500 for each instance on each day a violation was found. If a facility must be totally closed, it must establish new visitation protocols that allow visitation to the greatest extent safely possible.



# Let's examine possible scenarios



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# Scenario 1

- A family member wants to visit their loved one in the adult care home. When the facility uses their standard Covid 19 screening protocol for visitors, the family member presents with a temperature of 102 degrees in addition to a symptom of a dry cough.
- ***How should the facility handle this?***

# Scenario 1 Guidance

- A facility may require visitors to submit to health screenings and restrict a visitor who does not pass a health screen or who tests positive for an infectious disease.

Source: SB191

## Scenario 2

- A fully vaccinated resident leaves the facility to visit with their family. When the resident returns to the facility, should the resident be quarantined?

# Scenario 2 guidance

- **Fully** vaccinated residents do not have to be quarantined (unless symptomatic) when the facility has a Covid outbreak or if they have close contact to a positive person. They do need to be tested if identified as a close contact.
- Fully vaccinated residents, not on precautions (infected) can leave the facility and not be placed on quarantine upon return.
- **Unvaccinated** residents do need to be restricted to their rooms if close exposure, in addition to testing.

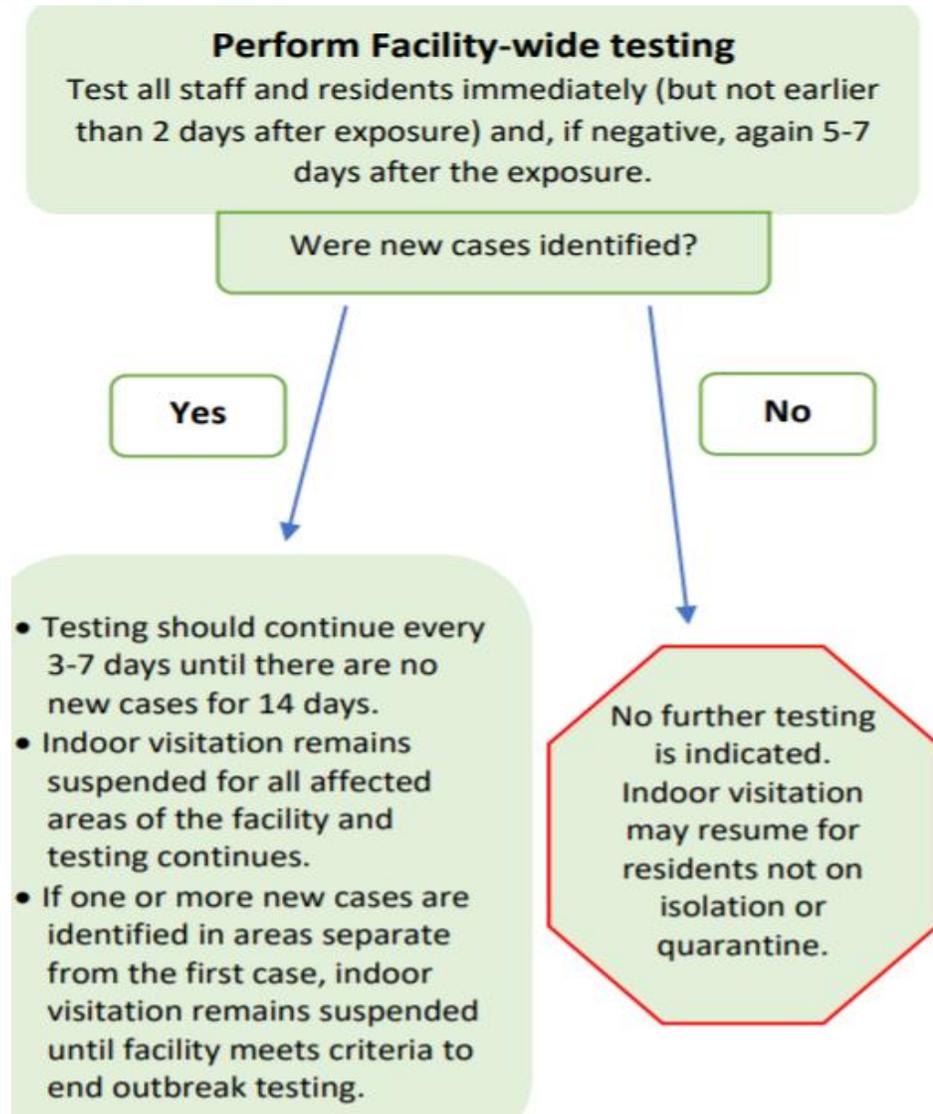
Source: COVID-19 Infection Prevention Guidance for Post-Acute Care Facilities  
Evelyn Cook, RN, CIC Associate Director SPICE

# Scenario 3

- A facility has a Covid 19 outbreak. A family member wants to visit a fully vaccinated resident.
- ***How should the facility handle this?***

# Scenario 3 guidance

Source: Evelyn Cook, RN, CIC Associate Director SPICE  
COVID-19 Infection Prevention Guidance for Post-Acute Care Facilities  
October 14, 2021



# Provider Resources

131D-7.5. Patient visitation rights for adult care home residents and special care unit residents

- Access this link for the complete SB191 bill:

<https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S191v5.pdf>

- Access the NCSLA website for a **Patient Visitation Rights WORD** document to provide to your residents:

<https://ncseniorliving.org/>

# Provider Resources

- Access the NCSLA website:

CDC Updated Infection Prevention Guidance presentation  
September 10th, 2021

Evelyn Cook, RN, CIC Associate Director SPICE

<https://ncseniorliving.org/>

- COVID-19 Infection Prevention Guidance for Post-Acute Care Facilities

<https://covid19.ncdhhs.gov/media/2334/open>



# Questions

