

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 489

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO ESSENTIAL CAREGIVERS; AMENDING SECTION 39-9801, IDAHO CODE, TO
2 REVISE DEFINITIONS; AMENDING SECTION 39-9802, IDAHO CODE, TO PROVIDE
3 LEGISLATIVE FINDINGS AND TO PROVIDE FOR STATUTORY CONSTRUCTION; AMEND-
4 ING SECTION 39-9803, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE
5 RIGHT TO ESSENTIAL CAREGIVERS AND TO PROVIDE FOR A CERTAIN POLICY AND
6 TRAINING; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 39-9801, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 39-9801. DEFINITIONS. As used in this chapter:

12 (1) "Assistance" means aid in meeting daily living needs.

13 (2) "Essential caregiver" means a ~~person or persons designated by a~~
14 ~~patient or resident to visit the patient or resident in person at a facility.~~
15 patient's or resident's spouse, adult child, parent, guardian, conserva-
16 tor, health care agent, or surrogate decision-maker as described in section
17 39-4504, Idaho Code, and may also include any person or persons designated
18 by a patient, resident, or surrogate decision-maker to visit the patient
19 or resident at the facility. The patient, resident, or surrogate deci-
20 sion-maker may revoke the designation of essential caregiver at any time. A
21 facility may not:

22 (a) Limit the number of essential caregivers that may be designated by a
23 patient, resident, or surrogate decision-maker; or

24 (b) Define the term "essential caregiver" more narrowly than the term
25 is defined in this section.

26 (3) "Facility" means an institution providing health care services, a
27 health care setting, or a setting in which to receive assistance, includ-
28 ing but not limited to hospitals and other licensed inpatient centers, am-
29 bulatory surgical or treatment centers, nursing facilities, skilled nursing
30 centers, residential treatment centers, rehabilitation and other therapeu-
31 tic health settings, or assisted living facilities.

32 (4) "Health care services" means services for the diagnosis, preven-
33 tion, treatment, cure, or relief of a health condition, illness, injury, or
34 disease.

35 (5) "Patient" means a person seeking or receiving health care services
36 at a facility.

37 (6) "Resident" means a person seeking or receiving assistance at a fa-
38 cility.

39 SECTION 2. That Section 39-9802, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 39-9802. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds
2 that:

3 (a) Idaho families have a constitutionally protected liberty interest
4 in companionship and society with one another;

5 (b) The access of patients and residents in certain facilities to their
6 family, friends, advocates, clergy, and advisers has been at times se-
7 verely curtailed;

8 (c) Involuntary isolation has deleterious effects on a person's health
9 and well-being, and such effects can be severe and even deadly for per-
10 sons already in a frail state of health; and

11 (d) No person should be required to surrender the ability to associate
12 simply because the person needs care.

13 (2) In enacting this chapter, it is the intent of the legislature to
14 guarantee and protect the right of Idahoans to be visited by essential care-
15 givers of their choosing when staying in a health care or assistance facil-
16 ity. The provisions of this chapter should be broadly construed in the light
17 most favorable to serving this intent.

18 SECTION 3. That Section 39-9803, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 39-9803. RIGHT TO ESSENTIAL CAREGIVERS. (1) A patient or resident has
21 the right to in-person visitation from an essential caregiver while receiv-
22 ing assistance or health care services at a facility, even if other visitors
23 are being excluded by the facility. However, the essential caregiver must
24 follow safety and other protocols imposed by the facility, and a facility may
25 place reasonable restrictions as to where and when the essential caregiver
26 may visit and the number of essential caregivers who may visit at the same
27 time. For purposes of this subsection, a restriction is reasonable if the
28 restriction:

29 (a) Is necessary to prevent the disruption of assistance or health care
30 services to the patient or resident; and

31 (b) Does not interfere with the patient's or resident's general right
32 to visitation by essential caregivers.

33 ~~(2) A facility that provides or intends to provide health care services~~
34 ~~or assistance must:~~

35 ~~(a) When practicable, notify a potential patient or resident of the~~
36 ~~right to designate essential caregivers prior to admission to the fa-~~
37 ~~ility;~~

38 ~~(b) Provide each patient or resident an opportunity to designate essen-~~
39 ~~tial caregivers; and~~

40 (2) If a facility is restricting overall visitation for patients and
41 residents, the facility shall, at the time of intake or as soon as practica-
42 ble:

43 (a) Notify a patient, resident, or surrogate decision-maker of the
44 right to:

45 (i) Designate essential caregivers; and

46 (ii) Remove individuals from the list of essential caregivers;

47 (b) Explain to a patient, resident, or surrogate decision-maker that an
48 essential caregiver may be any person and is not required to be a formal
49 caregiver;

1 (c) Provide each patient, resident, or surrogate decision-maker an op-
2 portunity to designate essential caregivers;

3 (d) Provide each person with legal authority to designate essential
4 caregivers the ability to restrict or remove any essential caregivers
5 from any visitation list for the patient; and

6 ~~(e)~~ (e) Accommodate a patient's or, resident's, or surrogate deci-
7 sion-maker's request to have essential caregivers visit within the
8 limits prescribed by this section. If the patient or resident is a minor
9 or incapacitated, visitation requests must be approved by a person with
10 legal authority to make decisions on behalf of the patient or resident,
11 such as a parent, guardian, or conservator.

12 (3) Patients who are in the custody of a peace officer and all prison-
13 ers committed to the custody of the department of correction or confined in a
14 correctional facility as defined in section 18-101A(1), Idaho Code, shall be
15 subject to the visitation terms set by the custodial entity.

16 SECTION 4. An emergency existing therefor, which emergency is hereby
17 declared to exist, this act shall be in full force and effect on and after
18 July 1, 2024.