

IN THE SENATE

SENATE BILL NO. 1012

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HEALTH; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW
2 CHAPTER 8, TITLE 39, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE LEGISLA-
3 TIVE INTENT, TO ESTABLISH PROVISIONS REGARDING VISITATION POLICIES
4 AND PROCEDURES AT CERTAIN FACILITIES, TO PROVIDE A RIGHT TO VISITATION
5 FOR PATIENTS AND RESIDENTS IN CERTAIN FACILITIES, TO PROVIDE CERTAIN
6 REQUIREMENTS FOR VISITATION POLICIES AND PROCEDURES, TO ESTABLISH
7 PROVISIONS REGARDING SUSPENSION OF VISITATION, TO PROVIDE FOR SUBMIS-
8 SION OF VISITATION POLICIES AND PROCEDURES TO THE DEPARTMENT OF HEALTH
9 AND WELFARE, TO PROVIDE FOR PUBLICATION OF VISITATION POLICIES AND
10 PROCEDURES ON CERTAIN WEBSITES, TO PROVIDE FOR SUBMISSION OF CERTAIN
11 COMPLAINTS, TO PROVIDE FOR A CERTAIN HOTLINE, AND TO PROVIDE AUTHORITY
12 TO THE DEPARTMENT OF HEALTH AND WELFARE; AND DECLARING AN EMERGENCY AND
13 PROVIDING AN EFFECTIVE DATE.
14

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

16 SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended
17 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
18 ter 8, Title 39, Idaho Code, and to read as follows:

19 CHAPTER 8

20 PATIENT RIGHT TO VISITATION

21 39-801. DEFINITIONS. As used in this chapter:

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

23 (2) "Department" means the department of health and welfare.

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

31 (4) "Health care agent" means a person appointed pursuant to a durable
32 power of attorney for health care to make health care decisions for another
33 person should the latter person become incapacitated.

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

37 (6) "Immediate family member" means a person's parent, spouse, child,
38 or sibling.

39 (7) "Patient" means a person receiving health care services at a facil-
40 ity.

41 (8) "Resident" means a person receiving assistance at a facility.

1 39-802. LEGISLATIVE INTENT. In enacting this chapter, it is the intent
2 of the legislature to guarantee the right of Idahoans to be visited by imme-
3 diate family members and health care agents when staying in a health care or
4 assistance facility.

5 39-803. VISITATION POLICIES AND PROCEDURES. (1) No later than thirty
6 (30) days after the effective date of this chapter, each facility already
7 operating in the state shall establish visitation policies and procedures.
8 The policies and procedures must, at a minimum, include:

- 9 (a) Infection control and education policies for visitors;
10 (b) Screening, personal protective equipment, and other infection con-
11 trol protocols for visitors, provided that such protocols may not dif-
12 fer for visitors based on a visitor's vaccination or immunization sta-
13 tus;
14 (c) Limitations on the number of visitors who may be allowed to see a
15 patient or resident at the same time, provided that no policy may limit
16 such number to fewer than four (4) visitors; and
17 (d) Designation of a person responsible for ensuring that facility
18 staff adhere to the policies and procedures.

19 (2) Safety-related visitation policies and procedures may not be more
20 stringent than those established for facility staff and may not require vis-
21 itors to submit proof of any vaccination or immunization.

22 (3) Visitation policies and procedures must allow consensual physical
23 contact between a patient or resident and the patient's or resident's visi-
24 tor.

25 (4) Any facility that begins operation in the state subsequent to the
26 effective date of this chapter shall establish visitation policies and pro-
27 cedures prior to accepting patients or residents. Such policies and proce-
28 dures must conform to the provisions of this chapter.

29 39-804. RIGHT TO VISITATION. (1) Patients or residents shall be
30 granted the right to visitation by immediate family members and health care
31 agents. A facility must allow in-person visitation by such persons for at
32 least two (2) hours daily in addition to any other general visitation autho-
33 rized by the facility.

34 (2) The right conferred by this section is in addition to any rights
35 conferred by chapter 98, title 39, Idaho Code.

36 39-805. REQUIREMENTS FOR VISITATION POLICIES AND PROCEDURES. Visita-
37 tion policies and procedures required by this chapter must allow in-person
38 visitation in all of the following circumstances, unless the patient or res-
39 ident objects:

- 40 (1) End-of-life situations;
41 (2) During childbirth, including labor and delivery;
42 (3) If the patient or resident is under the age of eighteen (18) years;
43 (4) If the patient or resident lived with family prior to being admitted
44 to the facility and is struggling with the change in environment and lack of
45 in-person family support;
46 (5) If the patient or resident is making at least one (1) major medical
47 decision;

1 (6) If the patient or resident is experiencing emotional distress or
2 grieving the loss of a friend or family member who has recently died;

3 (7) If the patient or resident needs encouragement to eat or drink,
4 which encouragement was previously provided by a family member or caregiver;
5 or

6 (8) If the patient or resident exhibits a significant change in behav-
7 ior, such as sudden avoidance of social interaction.

8 39-806. SUSPENSION OF VISITATION. (1) A facility may require a visitor
9 to agree in writing to follow the facility's policies and procedures. A fa-
10 cility may suspend in-person visitation by a specific visitor if such visi-
11 tor violates the facility's policies and procedures.

12 (2) Visitation by immediate family members or health care agents may
13 not be suspended based on the declaration of a state of emergency by the fed-
14 eral or state government or by the political subdivision in which the facil-
15 ity is located.

16 39-807. SUBMISSION TO THE DEPARTMENT. (1) Within sixty (60) days of
17 the effective date of this chapter, a facility shall submit its visitation
18 policies and procedures to the department. The department shall designate a
19 person or persons to receive such submissions.

20 (2) Subsequent to the initial submission pursuant to subsection (1) of
21 this section, a facility shall provide its visitation policies and proce-
22 dures to the department:

23 (a) When applying for licensure or license renewal;

24 (b) If ownership of the facility changes; or

25 (c) Upon request of the department.

26 39-808. ACCESS TO POLICIES ON WEBSITE -- COMPLAINTS -- HOTLINE. (1) A
27 facility shall publish its visitation policies and procedures on its website
28 and shall make access to such policies and procedures easily accessible from
29 the home page of the facility's website.

30 (2) Facilities already in operation as of the effective date of this
31 chapter shall publish visitation policies and procedures within seventy-two
32 (72) hours of their adoption. Facilities that begin operating after the
33 effective date of this chapter shall publish their visitation policies and
34 procedures prior to accepting patients or residents.

35 (3) The department shall dedicate a standalone page on its website to
36 explain the visitation requirements of this chapter and to provide a form
37 for submission of complaints regarding a facility's lack of compliance with
38 this chapter. The department shall also establish a hotline to handle com-
39 plaints about a facility's lack of compliance with this chapter during an ur-
40 gent or emergency situation. Such hotline shall be accessible twenty-four
41 (24) hours per day, including on weekends and holidays.

42 39-809. AUTHORITY OF DEPARTMENT. (1) The department is authorized to
43 take such actions as are necessary to implement the provisions of this chap-
44 ter, including the promulgation of any necessary rules.

45 (2) The department shall establish by rule a process for addressing and
46 resolving complaints made pursuant to section 39-808(3), Idaho Code, in-

1 cluding complaints made during urgent or emergency situations that require
2 an expeditious response and resolution.

3 (3) The department may prescribe by rule administrative penalties for
4 facilities that fail to conform to the provisions of this chapter.

5 SECTION 2. An emergency existing therefor, which emergency is hereby
6 declared to exist, this act shall be in full force and effect on and after
7 July 1, 2023.