

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 193

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO ESSENTIAL CAREGIVERS; AMENDING CHAPTER 97, TITLE 39, IDAHO CODE,
2 AS ENACTED BY SECTION 1, CHAPTER 134, LAWS OF 2022, TO REDESIGNATE THE
3 CHAPTER, TO REVISE DEFINITIONS, TO PROVIDE LEGISLATIVE FINDINGS, TO
4 PROVIDE FOR STATUTORY CONSTRUCTION, TO REVISE AND CLARIFY PROVISIONS
5 REGARDING THE RIGHT TO ESSENTIAL CAREGIVERS, AND TO PROVIDE FOR A CER-
6 TAIN POLICY AND TRAINING; AND DECLARING AN EMERGENCY.
7

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

9 SECTION 1. That Chapter 97, Title 39, Idaho Code, as enacted by Section
10 1, Chapter 134, Laws of 2022, be, and the same is hereby amended to read as
11 follows:

12 CHAPTER ~~97~~ 98
13 ESSENTIAL CAREGIVERS

14 ~~39-9701~~ 39-9801. DEFINITIONS. As used in this chapter:

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

16 (2) "Essential caregiver" means a patient's or resident's spouse,
17 adult child, parent, guardian, conservator, or health care agent. The term
18 "essential caregiver" also includes any person designated by a patient or
19 resident to visit the patient or resident in person at a facility, provided
20 that essential caregivers for patients or residents who are minors or in-
21 capacitated shall be designated by a person with legal authority to make
22 decisions on behalf of the patient or resident, such as a parent, guardian,
23 or conservator. A facility may not:

24 (a) Limit the number of essential caregivers for a patient or resident;
25 or

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

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

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

38 (5) "Patient" means a person receiving health care services at a facil-
39 ity or considering health care services offered at a facility.

40 (6) "Resident" means a person receiving assistance at a facility or
41 considering assistance at a facility.

1 ~~39-9702~~ 39-9802. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature
 2 finds that:

3 (a) Idahoans have a right to association, including a right to intimate
 4 association, under the constitutions of the United States and the state
 5 of Idaho;

6 (b) In recent years, the access of patients and residents in certain fa-
 7 ilities to their family, friends, advocates, clergy, and advisers has
 8 been severely curtailed;

9 (c) Credible research establishes that involuntary isolation has dele-
 10 terious effects on a person's health and well-being, and such effects
 11 can be severe and even deadly for persons already in a frail state of
 12 health; and

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

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

20 ~~39-9703~~ 39-9803. RIGHT TO ESSENTIAL CAREGIVERS. (1) A patient or resi-
 21 dent has the right to in-person visitation from an essential caregiver while
 22 receiving assistance or health care services at a facility, even if other
 23 visitors are being excluded by the facility. However, the essential care-
 24 giver must follow safety and other protocols imposed by the facility, and a
 25 facility may place reasonable restrictions as to where and when the essen-
 26 tial caregiver may visit and the number of essential caregivers who may visit
 27 at the same time. For purposes of this subsection, a restriction is reason-
 28 able if the 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) Explain to a patient or resident, if possible, that an essential
 39 caregiver may be any person and is not required to be a formal caregiver;

40 ~~(c)~~ (c) Provide, if possible, each patient, ~~or~~ resident, or person with
 41 legal authority to act on behalf of a patient or resident an opportunity
 42 to designate essential caregivers; and

43 ~~(d)~~ (d) Accommodate a patient's or resident's request to have essential
 44 caregivers visit within the limits prescribed by this section. If the
 45 patient or resident is a minor or incapacitated, visitation requests
 46 must be approved by a person with legal authority to make decisions on
 47 behalf of the patient or resident, such as a parent, guardian, or con-
 48 servator; and

49 (e) Allow visitation without a request by the patient or resident:

- 1 (i) By the patient's or resident's parent or guardian, if the pa-
- 2 tient or resident is a minor; or
- 3 (ii) By a patient's or resident's spouse, adult child, parent,
- 4 guardian, conservator, or health care agent if the patient or res-
- 5 ident is unable to request visitation due to unconsciousness, in-
- 6 capacitation, or lack of awareness.
- 7 (5) Each facility shall:
- 8 (a) Establish a policy to ensure that the facility's obligations to
- 9 respect and enforce patient and resident rights under this chapter are
- 10 satisfied; and
- 11 (b) Train facility personnel on the requirements of this chapter and
- 12 the policy established pursuant to paragraph (a) of this subsection.

13 SECTION 2. An emergency existing therefor, which emergency is hereby
14 declared to exist, this act shall be in full force and effect on and after
15 passage and approval.