

CHAPTER 47

(SB 43)

AN ACT relating to essential caregivers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 216.505 is amended to read as follows:

- (1) As used in this section:
 - (a) *"Health facility" has the same meaning as in KRS Chapter 216B;*
 - (b) *"Health service" has the same meaning as in KRS Chapter 216B;*
 - (c) *"Medicaid waiver service" means a medical service provided under the acquired brain injury, the Michelle P. waiver, the supports for community living, or the home and community based waiver programs; and*
 - (d) *"Psychiatric residential treatment facility" has the same meaning as in KRS 216B.450*~~["Community" means assisted living community as defined in KRS 194A.700;~~
 - ~~(b) "Facility" includes long term care facilities as defined in KRS 216A.010 and residential long term care facilities as defined in KRS 216.510; and~~
 - ~~(c) "Mental hospital" means a state owned or operated mental or psychiatric hospital.~~
- (2) Notwithstanding any state law to the contrary, the Cabinet for Health and Family Services shall require a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, a facility, and a mental hospital]~~ to permit in-person resident visitation by at least one (1) essential personal care visitor, including a family member, legal guardian, outside caregiver, friend, or volunteer who is important to the mental, physical, or social well-being of the resident.
- (3) The cabinet shall, within fourteen (14) days of *the effective date of this Act*~~[February 7, 2022]~~, promulgate administrative regulations in accordance with KRS Chapter 13A that, subject to applicable federal requirements:
 - (a) Establish procedures for a resident to designate at least one (1) essential personal care visitor and procedures to change the designated essential personal care visitor;
 - (b) Exempt an essential personal care visitor, *including during a communicable disease outbreak in a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility, regardless of the resident's communicable disease status*, from any prohibitions on visiting a resident of a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, a facility, or a mental hospital]~~ other than the requirements in this subsection;
 - (c) Require an essential personal care visitor to follow safety protocols of the *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, the facility, or the mental hospital]~~;
 - (d) Require an essential personal care visitor to assume a risk of contracting communicable diseases, provided the *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, the facility, or the mental hospital]~~ is compliant with the Kentucky Department for Public Health guidelines;
 - (e) Permit a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, a facility, or a mental hospital]~~ to require a written visitation agreement with an essential personal care visitor;
 - (f) Permit a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, facility, or mental hospital]~~ to limit visitation of an essential personal care visitor to the resident or residents he or she is approved to visit;
 - (g) Permit a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, facility, or mental hospital]~~ to limit the total number of essential personal care

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visitors allowed in the *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, facility, or mental hospital]~~ at any one (1) time; and

- (h) Except as provided in this section, do not require a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility*~~[community, facility, or mental hospital]~~ to permit an in-person visitor at all times.

➔Section 2. Whereas, the General Assembly recognizes that the mental, physical, and social well-being of residents in health facilities is greatly enhanced by assistance from essential personal care visitors, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2023.