

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of Inspector General**  
**(New Administrative Regulation)**

**900 KAR 14:010. Essential personal care visitor programs; visitation guidelines.**

RELATES TO: KRS 194A.700(4), 216.510(1)

STATUTORY AUTHORITY: 2022 Ky Acts ch. 10, sec. 1

NECESSITY, FUNCTION, AND CONFORMITY: 2022 Ky Acts ch. 10, sec. 1 requires the cabinet to promulgate administrative regulations, subject to applicable federal requirements, to establish guidelines for any individual designated as an essential personal care visitor to have in-person visitation with a resident of an assisted-living community, long-term care facility, or state-owned or operated mental or psychiatric hospital during a period when general visitation is limited or prohibited.

Section 1. Definitions.

- (1) "Essential personal care visitor" means a family member, legal guardian, outside caregiver, friend, or volunteer who:
  - (a) Is eighteen (18) years of age or older;
  - (b) May have provided regular care and support to a resident prior to any restrictions on visitation;
  - (c) Is designated as being important to the mental, physical, or social well-being of the resident; and
  - (d) Meets an essential need of the resident, including companionship, assisting with personal care, or positively influencing the behavior of the resident.
- (2) "Facility" means:
  - (a) An assisted-living community as defined by KRS 194A.700(4);
  - (b) A long-term care facility as defined by KRS 216.510(1); or
  - (c) A mental hospital as defined by 2022 Ky Acts ch. 10, sec. 1.
- (3) "Facility-onset" means a COVID-19 or other communicable disease case that originates in a facility.
- (4) "Outbreak" means one (1) new COVID-19 or other communicable disease case among facility staff or one (1) new facility-onset case among residents.
- (5) "Personal care" means assisting a resident with essential everyday activities, which may include grooming, dressing, and eating.
- (6) "Resident" means an individual who:
  - (a) Resides in an assisted-living community or long-term care facility; or
  - (b) Is a patient of a mental hospital as defined by 2022 Ky Acts ch. 10, sec. 1.

Section 2. Essential personal care visitation.

- (1) A facility shall:
  - (a) Allow essential personal care visitation as an exception from any prohibition against general visitation;
  - (b) Establish policies and procedures for the designation of at least one (1) essential personal care visitor, including a process for changing the designated essential personal care visitor; and
  - (c) In accordance with 2022 Ky Acts ch. 10, sec. 1, not be required to permit an in-person visitor at all times.
- (2) Designation of an essential personal care visitor shall be made in consultation with, and upon agreement by the:
  - (a) Resident; and
  - (b) Resident's representative, if applicable.
- (3) A facility may require a written agreement with an essential personal care visitor.

- (4) A facility may limit the total number of visitors permitted in the facility at any one (1) time.
- (5) A facility may limit visitation by an essential personal care visitor to the resident or residents he or she is approved to visit.
- (6) A facility may temporarily suspend essential personal care visitation based on a clinical or safety factor, including:
  - (a) An outbreak in the facility;
  - (b) The resident's communicable disease status; or
  - (c) Noncompliance by the essential personal care visitor with:
    1. Safety protocols or other requirements established by this emergency administrative regulation; or
    2. Any policies and procedures the facility deems necessary to keep staff and residents safe.
- (7) An essential personal care visitor who enters a facility during a period when general visitation is limited or prohibited shall:
  - (a) Assume the risk of contracting a communicable disease;
  - (b) Limit visitation to the resident's room or a facility-designated room within the building;
  - (c) Limit his or her movement within the facility;
  - (d) Follow the facility's safety protocols; and
  - (e) Inform the facility if he or she develops symptoms of a communicable disease within fourteen (14) days of the visit.
- (8) If the resident has a roommate, an essential personal care visitor shall:
  - (a) Not enter the resident's room if the roommate is there unless the roommate agrees in advance; and
  - (b) Be prohibited from staying in the room for more than fifteen (15) minutes unless otherwise approved by the roommate or roommate's representative.
- (9) An essential personal care visitor shall follow the same safety protocols required for facility staff, which may include one (1) or more of the following:
  - (a) Testing for a communicable disease, which may be the responsibility of the essential personal care visitor. If testing is provided by the facility, essential personal care visitors shall be tested on the same schedule as staff;
  - (b) Health screens, including screening for signs and symptoms of a communicable disease and denial of entry of any individual with signs and symptoms;
  - (c) Using appropriate personal protective equipment (PPE);
  - (d) Washing or sanitizing hands regularly;
  - (e) Maintaining a distance of six (6) feet from staff and other residents at all times. Social distancing from the resident receiving an essential personal care visit may be relaxed for a short period of time under certain circumstances, e.g., providing assistance with a personal care activity; and
  - (f) Adhering to any other requirement the facility deems appropriate in accordance with guidance from the Centers for Disease Control and Prevention (CDC).
- (10) During a period when general visitation is limited or prohibited, a facility shall:
  - (a) Be responsible for verifying and tracking the testing status of each essential personal care visitor if the facility requires testing as a safety protocol;
  - (b) Schedule essential personal care visits in advance or in accordance with a written agreement;
  - (c) Consider the number of other essential visitors who will be in the building at the same time when developing a visitation schedule;
  - (d) Establish limitations on the visitation frequency and length of the visits to keep staff and residents safe;
  - (e) Sanitize the area's high-frequency touched surfaces after the visit; and

(f) Continue to provide all required services and activities to a resident while an essential personal care visitor is with the resident.

Section 3. Training.

(1) Each essential personal care visitor shall complete facility-designated training that includes basic information on infection prevention and control, including:

- (a) Proper hand hygiene;
- (b) Use of PPE, if applicable;
- (c) Proper respiratory hygiene; and
- (d) Any other infection control measure the facility may require.

(2) A facility may post signage throughout the facility that demonstrate key instructions to reinforce safe practices.

*ADAM MATHER, Inspector General*  
*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: February 17, 2022

FILED WITH LRC: February 21, 2022 at 12:15 p.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on May 23, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this hearing shall notify this agency in writing by May 16, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. In the event of an emergency, the public hearing will be held using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor in advance of the scheduled hearing. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

**CONTACT PERSON:** Krista Quarles, Policy Specialist, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.