

## Visitation Rights – Florida Addendum

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### Policy

The facility will ensure that each resident right to visitation is observed. The facility shall not restrict visitation without a reasonable clinical or safety cause, consistent with 42 CFR § 483.10(f) (4) (v). The facility will not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation or disability.

### State Requirement

[S.B. 988 – Florida Statute](#) - Section 2. Section 408.823 H.B.133 – Health Care Facility Visitation Amendment, the “No Patient Left Alone Act”

### Federal Regulations

#### F564 483.10(f)(4)(vi)

A facility must meet the following requirements:

- A. Inform each resident (or resident representative, where appropriate) of his or her visitation rights and related facility policy and procedures, including any clinical or safety restriction or limitation on such rights, consistent with the requirements of this subpart, the reasons for the restriction or limitation, and to whom the restrictions apply, when he or she is informed of his or her other rights under this section.
- B. Inform each resident of the right, subject to his or her consent, to receive the visitors whom he or she designates, including, but not limited to, a spouse (including a same-sex spouse), a domestic partner (including a same-sex domestic partner), another family member, or a friend, and his or her right to withdraw or deny such consent at any time.
- C. Not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability.
- D. Ensure that all visitors enjoy full and equal visitation privileges consistent with resident preferences.

### CMS Visitation Requirement

1. Facilities shall not restrict visitation without a reasonable clinical or safety cause, consistent with 42 CFR § 483.10(f) (4) (v). A nursing home must facilitate in-person visitation consistent with the applicable CMS regulations. Failure to facilitate visitation, per 42 CFR § 483.10(f)(4), which states “The resident has a right to receive visitors of his or her choosing at the time of his or her choosing, subject to the resident's right to deny visitation when applicable, and in a manner that does not impose on the rights of another resident,” would constitute a potential violation and the facility would be subject to citation and enforcement actions.

## Procedure

### General Considerations

1. The Executive Director and/or Director of Nursing is responsible for ensuring the adherence to this policy.
2. Additionally, visitation should be person-centered, consider the residents' physical, mental, and psychosocial well-being, and support their quality of life.
3. Visitors will be required to follow the core principles of COVID-19 prevention.
  - a. **Visitor Education:**
    - i. Visitation restrictions
    - ii. Actions the facility is taking to protect them, the residents, and associates
    - iii. Actions they can take to protect themselves while in the facility
    - iv. How to properly don and doff appropriate PPE
    - v. Hand Hygiene, respiratory hygiene, and cough etiquette
  - b. **Visitor Screening:** The facility will utilize a "passive screening" protocol, where the facility shall provide guidance (e.g., posted signs at entrances) about recommended actions for visitors who have a positive viral test for COVID-19, symptoms of COVID-19, or have had close contact with someone with COVID-19.
    - i. Visitors with confirmed COVID-19 infection or compatible symptoms should defer non-urgent in-person visitation until they meet CDC criteria for healthcare settings to end isolation.
    - ii. For visitors who have had close contact with someone with COVID-19 infection, it is safest to defer non-urgent in-person visitation until 10 days after their close contact if they meet criteria described in CDC healthcare guidance (e.g., cannot wear source control).
  - c. **Visitor Infection Control:**
    - i. Hand hygiene (use of alcohol-based hand rub is preferred)
    - ii. Face covering or mask (covering mouth and nose), in accordance with CDC guidance.
  - d. **Visitor Personal Protective Equipment (PPE):**
    - i. Visitors will be provided PPE and instruction on how to don/doff PPE correctly when visiting a resident who is on transmission-based precautions.
4. Visitors who are unable to adhere to the core principles of COVID-19 infection prevention should not be permitted to visit or should be asked to leave.
5. The facility will not require visitors to submit proof of any vaccination or immunization.

## Essential Caregivers

A resident, client, or patient may designate a visitor who is a family member, friend, guardian, or other individual as an essential caregiver. The facility will allow in-person visitation by the essential caregiver for at least 2 hours daily in addition to any other visitation. The facility does not require an essential caregiver to provide necessary care to a resident, client, or patient of the facility and the facility will not require an essential caregiver to provide such care.

## Indoor Visitation

1. Facilities should allow indoor visitation at all times and for all residents as permitted under the regulations.
2. The facility will allow in-person visitation in all of the following circumstances, unless the resident, client, or patient objects:
  - a. End-of-life situations
  - b. A resident, client, or patient who was living with family before being admitted to the provider's care is struggling with the change in environment and lack of in-person family support.
  - c. The resident, client, or patient is making one or more major medical decisions.
  - d. A resident, client, or patient is experiencing emotional distress or grieving the loss of a friend or family member who recently died.
  - e. A resident, client, or patient needs cueing or encouragement to eat or drink which was previously provided by a family member or caregiver.
  - f. A resident, client, or patient who used to talk and interact with others is seldom speaking.
3. Although there is no limit on the number of visitors or length of the visit, that a resident can have at one time, visits should be conducted in a manner that adheres to the core principles of infection prevention and does not increase risk to other residents.

## Close Contact During Visitation

1. The resident and visitor may choose to have consensual physical contact.

## Compassionate Care Visitation

1. Compassionate care visits are allowed at all times. In the event a scenario arises that would limit visitation for a resident (e.g., a resident is severely immunocompromised and the number of visitors the resident is exposed to needs to be kept to a minimum), compassionate care visits would still be allowed at all times. CMS expects these scenarios to be rare events.

## Visitation of Resident on Transmission-Based Precautions

1. Residents who are on transmission-based precautions (TBP) can still receive visitors. In these cases, visits should occur in the resident's room and the resident should wear a well-fitting facemask (if tolerated).

2. Before visiting residents, who are on TBP, visitors should be made aware of the potential risk of visiting and precautions necessary in order to visit the resident. Visitors should adhere to the core principles of infection prevention.
3. Facilities should provide instruction, before visitors enter the patient's room, on hand hygiene, limiting surfaces touched, and use of PPE according to current facility policy.
4. Visitors should be instructed to only visit the patient room. They should minimize their time spent in other locations in the facility.

## Indoor Visitation During an Outbreak

1. If residents or their representative would like to have a visit during an outbreak investigation, they should wear face coverings or masks during visits and visits should ideally occur in the resident's room.
2. While an outbreak investigation is occurring, facilities should limit visitor movement in the facility. For example, visitors should not walk around different halls of the facility. Rather, they should go directly to the resident's room or designated visitation area.

## Visitor exceptions

### 1. Survey Considerations

- a. State survey agencies and CMS are ultimately responsible for ensuring surveyors are compliant with the applicable expectations. Therefore, the facility is not permitted to restrict access to surveyors based on vaccination status, nor ask a surveyor for proof of his or her vaccination status as a condition of entry.

### 2. Access to the Long-Term Care Ombudsman;

- a. As stated in previous CMS guidance QSO-20-28-NH (revised), regulations at 42 CFR 483.10(f)(4)(i)(C) require that a Medicare and Medicaid certified nursing home provide representatives of the Office of the State Long-Term Care Ombudsman with immediate access to any resident. If an ombudsman is planning to visit a resident who is in TBP or quarantine, who is not up-to-date with all recommended COVID-19 vaccine doses, in a nursing home in a county where the level of community transmission is substantial or high in the past 7 days, the resident and ombudsman should be made aware of the potential risk of visiting, and the visit should take place in the resident's room. We note that representatives of the Office of the Ombudsman should adhere to the core principles of COVID-19 infection prevention as described above. If the resident or the Ombudsman program requests alternative communication in lieu of an in-person visit, facilities must, at a minimum, facilitate alternative resident communication with the Ombudsman program, such as by phone or through use of other technology. Nursing homes are also required under 42 CFR § 483.10(h)(3)(ii) to allow the Ombudsman to examine the resident's medical, social, and administrative records as otherwise authorized by State law

**3. Federal Disability Rights Laws and Protection & Advocacy (P&A) Programs;**

- a. Section 483.10(f)(4)(i)(E) and (F) requires the facility to allow immediate access to a resident by any representative of the protection and advocacy systems, as designated by the state, and as established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act), and of the agency responsible for the protection and advocacy system for individuals with a mental disorder (established under the Protection and Advocacy for Mentally Ill Individuals Act of 2000). Additionally, each facility must comply with federal disability rights laws such as Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA).
- b. If the P&A is planning to visit a resident who is in TBP or quarantine, or a resident, who is not up-to-date with all recommended COVID-19 vaccine doses, in a county where the level of community transmission is substantial or high in the past 7 days, the resident and P&A representative should be made aware of the potential risk of visiting and the visit should take place in the resident's room.

**4. Additionally, each facility must comply with federal disability rights laws such as Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504) and the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq. (ADA).**

- a. For example, if communicating with individuals who are deaf or hard of hearing, it is recommended to use a clear mask or mask with a clear panel. Face coverings should not be placed on anyone who has trouble breathing or is unable to wear a mask due to a disability, or anyone who is unconscious, incapacitated, or otherwise unable to remove the mask without assistance.
- b. In addition, if a resident requires assistance to ensure effective communication (e.g., a qualified interpreter or someone to facilitate communication) and the assistance is not available by onsite staff or effective communication cannot be provided without such entry (e.g., video remote interpreting), the facility must allow the individual entry into the nursing home to interpret or facilitate, with some exceptions. This would not preclude nursing homes from imposing legitimate safety measures that are necessary for safe operations, such as requiring such individuals to adhere to the core principles of COVID-19 infection prevention.

**5. Entry of Health Care Workers and Other Providers of Services;**

- a. All healthcare workers must be permitted to come into the facility as long as they are not subject to a work exclusion or showing signs or symptoms of COVID-19. In addition to health care workers, personnel educating and assisting in resident transitions to the community should be permitted entry consistent with this guidance. We note that EMS personnel do not need to be screened, so they can attend to an emergency without delay. We remind facilities that all staff, including individuals providing services under arrangement as well as volunteers, should adhere to the core principles of COVID-19 infection prevention and must comply with COVID-19 testing requirements.

**References:**

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| <ul style="list-style-type: none"> <li>• FL – SB 988 – 04/04/2022: <a href="#">click here</a></li> </ul> |  |
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