



STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

KODY KINSLEY
SECRETARY

June 27, 2022

VIA EMAIL

To All NC Nursing Homes, Combination Homes, and Adult and Family Care Homes:

Session Law 2021-145, commonly referred to as "Clifford's Law," directs your facilities to allow each patient or resident to have at least two visits per month by a designated or preapproved alternate visitor during any period of time when your normal visitation policy is suspended or curtailed for any reason during a declared disaster or emergency. The law also directs my staff to draft protocols specific to the law, to seek input from interested stakeholders on those protocols, and to finalize and issue those protocols.

As Secretary of the Department of Health and Human Services, I write to fulfill this statutory responsibility by sharing the final visitation protocols with you and announcing their implementation, effective immediately.

The "Clifford's Law Visitation Protocols" enclosed with this letter uphold the visitation requirements of Session Law 2021-145. The requirements were established by the General Assembly of North Carolina to constitute a minimum requirement for the number of visits and visitors available to patients and residents of the facilities that are subject to this law.

I use this opportunity to remind us that safe and consistent visitation is important for the well-being of patients, residents, families, friends, and guardians. Provided that such visitation is consistent with these protocols, facilities are permitted and encouraged to allow for greater than two visits per month and to allow for visits by those not identified as the designated or preapproved alternate visitor.

I appreciate the input DHHS received from stakeholders during the development of these protocols. Like you, we are committed to visitation that is both safe and available.

Sincerely,

DocuSigned by:

A handwritten signature in black ink, appearing to read "Cody H. Kinsley".

Cody H. Kinsley

Enclosure: DHHS Clifford's Law Visitation Protocols

cc: Deputy Secretary Mark Benton
Mark Payne
Susan Kansagra, MD
Will Ray
Julie Cronin

Chapter 131D.

Inspection and Licensing of Facilities.

Article 1.

Adult Care Homes.

Part 1. Licensing.

§ 131D-7.1. (Effective April 1, 2022) Secretary to establish visitation protocols during declared disasters and emergencies.

- (a) As used in this section and in G.S. 131D-7.2, the following terms have the following meanings:
- (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).
 - (2) Emergency. – As defined in G.S. 166A-19.3(6).
 - (3) Facility. – An adult care home, including a family care home, licensed under this Article.
 - (4) Normal visitation policy. – The visitation policy that was in effect at a facility on January 1, 2020.

(b) The Secretary shall, in consultation with licensed operators of adult care homes, including family care homes, and any other stakeholders the Secretary deems relevant, establish visitation protocols for residents of these facilities that will become effective during a disaster declaration or emergency that results in the suspension or curtailment of a facility's normal visitation policy for any reason. The visitation protocols shall provide for at least the following:

- (1) Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor, or if the preapproved visitor is unavailable, the preapproved alternate visitor, shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or curtailed for any reason during the declared disaster or emergency.
- (2) Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section.
- (3) Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy. (2021-145, s. 3(a).)

Chapter 131E.

Health Care Facilities and Services.

Article 6.

Health Care Facility Licensure Act.

Part 1. Nursing Home Licensure Act.

§ 131E-112.5. (Effective April 1, 2022) Secretary to establish visitation protocols during declared disasters and emergencies.

(a) As used in this section and G.S. 131E-112.6, the following terms have the following meanings:

- (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).
- (2) Emergency. – As defined in G.S. 166A-19.3(6).
- (3) Facility. – A nursing home or combination home licensed under this Part.
- (4) Normal visitation policy. – The visitation policy that was in effect at a facility on January 1, 2020.

(b) The Secretary shall, in consultation with licensed operators of nursing homes and combination homes, and any other stakeholders the Secretary deems relevant, establish visitation protocols for residents of these facilities that will become effective during a disaster declaration or emergency that results in the suspension or curtailment of a facility's normal visitation policy for any reason. The visitation protocols shall provide for at least the following:

- (1) Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor, or if the preapproved visitor is unavailable, the preapproved alternate visitor, shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or curtailed for any reason during the declared disaster or emergency.
- (2) Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section.
- (3) Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy. (2021-145, s. 2(a).)

§ 131D-7.2. (Effective April 1, 2022) Resident visitation rights for adult care homes, including family care homes, during a disaster declaration or emergency.

Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the visitation protocols established by the Secretary under G.S. 131D-7.1 shall be in effect during any period of time when (i) there is a declared disaster or emergency and (ii) an adult care home, including a family care home, licensed under this Article suspends or restricts the normal visitation policy for any reason. (2021-145, s. 3(a).)