



**TESTIMONY BEFORE THE
HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE**
February 18, 2021
House Bill 983: Nursing Homes - COVID-19 - Visitation
Written Testimony Only

POSITION: SUPPORT WITH AMENDMENTS

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support with amendments for House Bill 983: Nursing Homes - COVID-19 - Visitation. HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction in the state.

HFAM members provide the majority of post-acute and long-term care to Marylanders in need: 6 million days of care across all payer sources annually, including more than 4 million Medicaid days of care and one million Medicare days of care. Thousands of Marylanders across the state depend on the high-quality services that our skilled nursing and rehabilitation centers offer every day.

We appreciate and support this legislation, recognize the challenge in crafting it, and applaud the sponsor's leadership on this important issue. Visitation and engagement of loved ones are critical across all healthcare settings and especially in long-term and post-acute care. Also, it is important to note that there will likely remain federal requirements regarding visitation in place during the current public health emergency and during any future public health emergency.

Therefore, we respectfully offer the following amendments:

1. **Article Health General (19-1410.3A): (2) "COMPASSIONATE CARE VISITOR" MEANS A FAMILY MEMBER OR LEGAL GUARDIAN OF A RESIDENT WHO IS IMPORTANT TO THE MENTAL, PHYSICAL, OR SOCIAL WELL-BEING OF THE RESIDENT DURING CRITICAL SITUATIONS INCLUDING THE END OF THE RESIDENT'S LIFE, [DELETE: THE] OR SIGNIFICANT MENTAL OR PHYSICAL DECLINE OF THE RESIDENT [DELETE: OR WHEN EXIGENT CIRCUMSTANCES EXIST REGARDING THE RESIDENT].**
2. **Article Health General (19-1410.3) Page 2 Line 10 A (4)** Amend to say: "Require a nursing home to allow a single personal care visitor family member as designated by the resident, medical decision-maker or otherwise authorized representative and in accordance with the guidelines of the Centers for Disease Control and Prevention (CDC), the Maryland Department of Health, and including but not limited to the screening and infectious disease protocols outlined in this legislation. No provision of this section shall (a) prevent the resident or authorized decision-maker for the resident from making determinations under applicable law concerning allowing or limiting visitation by identified individuals, or (b) prevent the nursing home from measures otherwise permitted by applicable to law to protect the resident's health or safety."

3. **Article Health General (19-1410.3) Page 2 Line 18 (I)** Amend to say: "Require a nursing home to allow a single compassionate care visitor family member as designated by the resident, medical decision-maker, or other authorized representative and in accordance with the guidelines of the Centers for Disease Control and Prevention (CDC), the Maryland Department of Health, and including but not limited to the screening and infectious disease protocols outlined in this legislation. No provision of this section shall (a) prevent the resident or authorized decision-maker for the resident from making determinations under applicable law concerning allowing or limiting visitation by identified individuals, or (b) prevent the nursing home from measures otherwise permitted by applicable law to protect the resident's health or safety."
4. Article Health General (19-1410.3B(II)(2) Delete: **IF A DETERMINATION IS REQUIRED, AUTHORIZE THE DETERMINATION TO BE MADE BY A HEALTH CARE PROFESSIONAL WHO IS NOT AFFILIATED WITH THE NURSING HOME [, INSERT: WHICH RESTRICTION SHALL NOT APPLY TO A PHYSICIAN, NURSE PRACTITIONER OR PHYSICIAN ASSISTANT];**

On February 11, 2021, Governor Hogan and the Maryland Department of Health (MDH) modified Maryland visitation restrictions relative to hospitals, skilled nursing and rehabilitation centers, and assisted living campuses. These amended orders, which are effective March 1, 2021, align state visitation guidelines with those of the Centers for Medicare and Medicaid Services (CMS).

The alignment of visitation with federal CMS guidelines should result in more centers being able to allow visitation. **It is important to remember that compassionate care visits had been previously and continue to be permitted under Maryland orders.** Also, some points of the updated visitation orders will increase visitation and some points will impede visitation in our setting:

- The modification of percentage caps of visitors linked to the size of a specific skilled nursing and rehabilitation center, its number of licensed beds, and the community's positivity rate will mean that more people will be able to visit with proper PPE and precautions.
- However, linking visitation to the CMS guidance will continue limiting visitation because the CMS requirement for a facility to be totally COVID free for 14 days is still in place. We need the federal government to distinguish that rule, which includes one single case, to exclude workers who do not directly interact with patients.

HFAM continues to advocate for clinically-driven visitation policies and will keep working closely with our MDH colleagues at the state level and with the American Health Care Association/National Center for Assisted Living (AHCA/NCAL) at the federal level.

My work's highest honor is visiting with residents, patients, and staff in Maryland skilled nursing and rehabilitation centers and on assisted living campuses. Before COVID-19, I made these visits, on average, every two weeks.

Unfortunately, due to COVID-19, my visits are no longer safe for the residents, patients, and staff. Once it becomes safe to visit when the pandemic ends, I will visit again, and I will visit often. Fortunately, I have continued to speak with and advocate for residents and family members throughout the COVID-19 pandemic through phone and video calls.

At the intersection of my personal and professional lives, the visits I made to my parents and other family members in nursing homes were cherished. I know these visits also help in the recovery and health of individuals receiving care in skilled nursing and rehabilitation centers, hospitals, and other settings.

In advance of the government orders to severely limit in-person visitation, HFAM prepared the long-term and post-acute care sector by advising on the critical need for symptom screening, limited visitation, and identification of employees who worked in multiple healthcare settings. Around the same time, many healthcare organizations, including skilled nursing and rehabilitation centers, bought iPads, handheld devices, and laptops for virtual visitation with loved ones.

Limiting visitation to compassionate care visits was vital in mitigating the spread of COVID-19 in all healthcare settings and reducing the death rate among older and medically challenged Marylanders who live in nursing homes or receive care in hospitals. As we all know, older individuals and those with pre-existing conditions are most at risk of severe illness or death due to COVID-19.

While it was difficult, and everyone wanted to visit loved ones in healthcare settings across the care continuum, nobody wanted to be the person to spread the virus or cause an outbreak among our most vulnerable populations and those who provide their care. It is important to reiterate these points:

- Clinicians and epidemiologists directed federal and state leaders to dramatically curtail visitation during the public health emergency of the COVID-19 pandemic.
- In-person visits under specific guidelines have been permitted in Maryland since the summer of 2020. As we continue to fight COVID-19, it is often challenging to meet those clinical requirements (14 Day CMS Guidance).
- End of life and hospice visits have long been permitted under particular government-mandated guidelines, and later essential care visits were allowed under certain circumstances.
- Getting the COVID-19 vaccine into the arms of Marylanders in healthcare settings and significantly increasing the number of those vaccinated in the community at large is our path to normalcy with visitation and on so many fronts.

For these reasons and with the proposed amendments, we request a favorable report from the Committee on House Bill 983.

Submitted by:

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