



HOUSE BILL 351: Clifford's Law.

2021-2022 General Assembly

Committee:		Date:	December 8, 2021
Introduced by:		Prepared by:	Jason Moran-Bates Staff Attorney
Analysis of:	S.L. 2021-145		

OVERVIEW: *S.L. 2021-145 requires the Secretary of the Department of Health and Human Services (DHHS) to establish visitation protocols that would be in effect during declared disasters and emergencies and when a facility suspends or restricts normal visitation. The protocols must provide visitation rights for patients in nursing homes, combination homes, and adult care homes, including family care homes, and allow each resident to receive a visit at least twice per month from one preapproved visitor or preapproved alternate visitor. The protocols must be in place by June 15, 2022.*

The provisions of the act establishing the standards for visitation become effective April 1, 2022. The provisions of the act requiring the DHHS Secretary to implement visitation protocols became effective September 10, 2021.

BILL ANALYSIS: The act requires the Secretary of the Department of Health and Human Services (Secretary) to establish visitation protocols for nursing homes, combination homes, and adult care homes, including family care homes, that would be in effect during a (i) declared disaster or emergency and (ii) when a facility suspends or restricts the normal visitation policy for any reason.

The act references disaster declaration (defined in G.S. 166A-19.3(3)) and emergency (defined in G.S. 166A-19.3(6)). The "normal visitation policy" is the visitation policy in effect on January 1, 2020.

When developing the visitation protocols, the Secretary must consult with licensed operators of the impacted facilities and other stakeholders deemed relevant. The Secretary must implement the visitation protocols by June 15, 2022.

The visitation protocols must provide at least the following:

- Each resident has the right to designate one preapproved visitor and a preapproved alternate visitor. Either would be allowed to visit the resident at least twice per month during any period when the facility's normal visitation policy is suspended or curtailed during the declared disaster or emergency.
- Prior to admission, each facility must explain and provide to each resident written notification of the visitation protocols established by the Secretary.
- Visitation under the protocols is 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.

The Secretary is required to submit a report summarizing the visitation protocols to the Chairs of the Joint Legislative Oversight Committee on Health and Human Services at least 30 days prior to implementation.

EFFECTIVE DATE: The provisions of the act establishing the standards for visitation become effective April 1, 2022. The provisions of the act requiring the DHHS Secretary to implement visitation protocols became effective September 10, 2021.

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CURRENT LAW DEFINITIONS:

Nursing home – [G.S. 131E-101(6)] a facility that provides nursing or convalescent care for three or more persons unrelated to the licensee; a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X ray facilities, laboratory facilities, and obstetrical facilities. A "nursing home" provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

Combination home – [G.S. 131E-101(1a)] a nursing home offering one or more levels of care, including any combination of skilled nursing, intermediate care, and adult care home.

Adult Care Home – [G.S. 131D-2.1] An assisted living residence in which the housing management provides 24 hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Adult care homes that provide care to two to six unrelated residents are commonly called **family care homes**.

Disaster declaration – [G.S. 166A-19.3(3)] a gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a disaster of one of the types enumerated in G.S. 166A-19.21(b).

Emergency – [G.S. 166A-19.3(6)] defines emergency as an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.

Gubernatorial declaration of disaster – [G.S. 166A-19.21(b)] provides that upon receipt of a preliminary damage assessment, the Governor is authorized to issue a disaster declaration declaring the impact or anticipated impact of the emergency to constitute a Type I, Type II, or Type III disaster.

ADDITIONAL INFORMATION:

The NC DHHS *Guidance for Visitation and Quarantine in Long Term Care Facilities*, effective March 16, 2021, can be found [here](#).

**Theresa Matula, Legislative Analysis Division, substantially contributed to this summary.*