



Division of Provider Services & Quality Assurance
P.O. Box 8059, Slot S409, Little Rock, AR 72203-8059

MEMORANDUM

LTC-A-2021-06

TO: Nursing Home Administrators, Nursing Facilities, ICFs/MR 16 Beds and Over, HDCs, ICFs/MR Under 16 Beds, Assisted Living Facilities, and other Long-Term Care Facilities

FROM: Martina Smith, J.D., Division Director

DATE: April 9, 2021

RE: Advisory Memo – Notice of No Patient Left Alone Act- Compassionate Care Visitation

On March 1, 2021, the Arkansas General Assembly amended Arkansas Code Title 20, Chapter 6 and added subchapter 4- No Patient Left Alone Act. This act addresses the visitation rights of patients and residents and is applicable to long-term facilities as follows: nursing homes, residential care facilities, post-acute head injury retraining and residential facilities, intermediate care facilities for individuals with developmental disabilities, assisted living facilities, and facilities that provide long-term medical or personal care.

The Act defines compassionate care visitation as a visit with a friend or family member that is necessary to meet the physical or mental needs of a resident when they exhibit signs of physical/mental distress, including:

- 1) End-of-life situations;
- 2) Adjustment support after moving to a new environment;
- 3) Emotional support after the loss of a friend or family member;
- 4) Physical support after eating or drinking issues, especially if the resident is experiencing weight loss or dehydration;
- 5) Social support after frequent crying, distress, or depression.

Compassionate care visitation includes clergy members, lay persons offering religious or spiritual support, other persons requested by the resident for the purpose of a compassionate care visit, and a person providing a service requested by the resident such as a hair dresser or barber.

According to the Act, long-term care facilities shall allow compassionate care visitation as needed by the resident to alleviate physical or mental distress. Facilities shall adopt a protocol for personal contact that adheres to appropriate infection prevention guidelines disseminated by the Centers for Disease Control and Prevention (CDC) or the Centers for Medicare and Medicaid Services (CMS). Personal contact with a resident is permitted during visitation, if the long-term care facility's protocol is followed. Facilities shall work with residents, families, caregivers, resident representatives, medical providers, and the ombudsman program to identify the need for compassionate care visitation.

Each long-term care facility shall identify one (1) or more ways to allow compassionate care visitation, including personal contact, that minimize the risk of infection to the resident and other residents in that facility. Long-term care facilities with no new onset COVID-19 in the last fourteen (14) days and in counties with coronavirus 2019 (COVID-19) positivity rates that are less than ten percent (10%), shall accommodate and support indoor visitation for reasons beyond compassionate care visitation. Compassionate care visitation shall continue even if the infection rate is high in the county where the long-term facility is located.

Facilities may limit the number of visitors, per resident, at a long-term care facility based on the size of the building and physical space and movement in the long-term care facility, such as requiring the visitor to go directly to the resident's room or designated visitation area. Visits for residents who share a room shall not be conducted in a resident's room unless the health status of the resident prevents leaving the room. Healthcare workers who are not employees of the long-term care facility, but provide direct care to a resident, shall be permitted to enter the long-term care facility if proper infection control protocols are followed.

Long-term care facilities shall also ensure that decisions regarding end-of-life care are made by a resident with capacity or by the representative of a resident without capacity, as provided in the Arkansas Healthcare Decisions Act, § 20-6-101 et seq. Within the scope of visitation provided by this section, a long-term care facility shall permit a resident making decisions regarding end-of-life care to be accompanied by a family member, guardian, or support person designated by the resident, unless the resident declines or requests to have the discussion outside of the presence of a family member, guardian, or support person.

Note: 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 state and federal regulations and guidance (Please refer to the [CMS Revisions to the Guidance for Visitation/COVID-19](#)). However, a facility may limit or restrict visitation when:

- 1) The presence of visitors would be medically or therapeutically contraindicated;
- 2) The presence of visitors would interfere with the care of or rights of any patient;
- 3) Visitors are engaging in disruptive, threatening, or violent behavior toward any staff member, patient, or other visitor; or
- 4) Visitors are noncompliant with healthcare facility policy.

An individual may file a complaint with the appropriate state agency or licensing board, including the Department of Health and the Department of Human Services, for failing to comply with the No Patient Left Alone Act. To the extent permitted by state and federal laws, the long-term care facility could be subject to citation and enforcement actions. For the Department of Human Services, complaints can be lodged by calling 1-800-582-4887, or they can be sent to fax number 501-682-8551 or Complaints.OLTC@arkansas.gov.

The No Patient Left Alone Act does not apply to the Arkansas State Hospital, a minor in the custody of the Division of Children and Family Services, a suspected victim in a pending maltreatment investigation, an individual in the custody of the Department of Corrections, or an individual who is attending a preventive healthcare office visit. The requirements of the No Patient Left Alone Act establishes a minimum for visitation, and rights cannot be terminated, suspended, or waived by: a healthcare facility, the Department of Health, the State Board of Health, the Department of Human Services, or the Governor upon declaring a disaster emergency.