
DIGEST

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HB 98 Original

2020 Second Extraordinary Session

Edmonds

Abstract: Provides relative to visitation by members of the clergy of patients and residents at hospitals, nursing homes, and adult residential care homes (assisted living facilities) during a state of public health emergency.

Proposed law provides that, for purposes of proposed law, "inpatient healthcare facility" shall mean all of the following:

- (1) Any hospital, except a hospital designated as a forensic facility, licensed pursuant to present law.
- (2) Any nursing home as defined in present law.
- (3) Any adult residential care home as defined in present law, including but not limited to assisted living facilities.

Proposed law declares that its purpose is to protect the religious liberty of all patients and residents of inpatient healthcare facilities and to protect inpatient healthcare facilities from costly lawsuits and administrative complaints on the basis of religious discrimination by affording access by patients and residents to members of the clergy during a state of public health emergency declared in accordance with present law, so long as those members of the clergy do all of the following:

- (1) Enter the inpatient healthcare facility on a voluntary basis.
- (2) Agree to comply with the safety requirements provided for in the policies of the inpatient healthcare facility.
- (3) Accept the risks associated with entry into the inpatient healthcare facility for purposes of visiting and ministering to the patient or resident.

Proposed law requires inpatient healthcare facilities to adopt policies to allow for members of the clergy to visit patients or residents, including, but not limited to, those patients receiving end-of-life care, during a state of public health emergency declared in accordance with present law. Provides that such policies may allow for visitation by clergy of a patient or resident who is incapacitated upon request of a family member or legal representative of the patient or resident.

Proposed law provides that the policies adopted by a healthcare facility in accordance with proposed

law may include reasonable restrictions for the time, place, and manner of patient or resident visitation for the purpose of mitigating the possibility of transmission of any infectious agent or disease or addressing the medical condition or clinical considerations of individual patients.

Proposed law stipulates that the policies adopted by a healthcare facility in accordance with proposed law shall be preempted by any federal statute, federal regulation, or official guidance from an agency of the federal government that requires a facility to restrict patient visitation in a manner that is more restrictive than the facility's policies for visitation.

Present law provides for protections from civil liability for certain actions during a state of public health emergency declared in accordance with the Louisiana Health Emergency Powers Act (present law, R.S. 29:760 et seq.).

Proposed law retains present law and adds thereto the following liability protection: during a state of public health emergency declared in response to any contagious or infectious disease, no inpatient healthcare facility shall be liable to a member of the clergy for any civil damages for injury or death resulting from or related to actual or alleged exposure during the course of, or through the performance of, allowing access to a member of the clergy in compliance with proposed law unless the inpatient healthcare facility failed to substantially comply with applicable laws and regulations that govern its operations and the injury or death was caused by the facility's gross negligence or wanton or reckless misconduct.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 29:771(B)(2)(c) and (e) and R.S. 40:2005; Adds R.S. 29:771(B)(2)(f) and R.S. 40:2005.1)