



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0188/1
KMS:cdc

**SENATE SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 257**

November 28, 2023 - Offered by Senator JACQUE.

1 **AN ACT** *to amend* 146.95 (2) (b) (intro.); and *to create* 50.083 and 50.373 of the
2 statutes; **relating to:** visitation of a long-term care facility resident or hospital
3 patient during a communicable disease outbreak.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 50.083 of the statutes is created to read:

5 **50.083 Visitation by essential visitor or clergy during a communicable**
6 **disease outbreak. (1) DEFINITIONS.** In this section:

7 (a) “Assisted living facility” means a community-based residential facility, as
8 defined in s. 50.01 (1g), a residential care apartment complex, as defined in s. 50.01
9 (6d), or an adult family home, as defined in s. 50.01 (1) (b).

10 (b) “Essential visitor” means any of the following:

1 1. An individual to visit and provide support to a resident in an assisted living
2 facility or nursing home who is designated by the resident or the resident's guardian
3 or agent under an activated power of attorney for health care.

4 2. The guardian of an assisted living facility or nursing home resident or the
5 agent under an activated power of attorney for health care for an assisted living
6 facility or nursing home resident.

7 (c) "Member of the clergy" has the meaning given in s. 765.002 (1).

8 (d) "Nursing home" has the meaning given in s. 50.01 (3).

9 **(2) APPLICABILITY.** At any time an assisted living facility or a nursing home
10 limits visitors due to an outbreak or epidemic of communicable disease in the
11 community in which the assisted living facility or nursing home is located, the
12 assisted living facility or nursing home shall conform its visitation policy to this
13 section.

14 **(3) ASSISTED LIVING FACILITY AND NURSING HOME VISITATION DURING A**
15 **COMMUNICABLE DISEASE OUTBREAK.** (a) 1. Subject to pars. (b) and (c), each assisted
16 living facility and nursing home shall allow at least one essential visitor, who agrees
17 to comply with any public health policies and infection prevention and control
18 protocols of the assisted living facility or nursing home, to enter the assisted living
19 facility or nursing home to visit the resident in compassionate care situations,
20 including any of the following:

21 a. The resident has recently been admitted to the assisted living facility or
22 nursing home and is experiencing difficulty in adjusting to the change in
23 environment and lack of family presence.

24 b. The resident is grieving the recent death of a friend or family member.

25 c. The resident is nearing end of life.

1 d. In the judgment of the attending health care professional, as defined in s.
2 154.01 (1r), the benefits of the presence of the essential visitor outweighs the
3 potential negative impacts that the essential visitor's presence might have on other
4 patients, visitors, and staff in the assisted living facility or nursing home.

5 2. Subject to par. (b), each assisted living facility and nursing home shall allow
6 at least one member of the clergy to visit with a resident of the assisted living facility
7 or nursing home.

8 (b) An assisted living facility or a nursing home may deny visitation with a
9 resident to any member of the clergy or essential visitor if any of the following
10 applies:

11 1. The member of the clergy or essential visitor refuses to comply with any
12 policies of the assisted living facility or nursing home that are in place to protect the
13 health and safety of the member of the clergy or essential visitor, other visitors,
14 residents, and staff in the assisted living facility or nursing home.

15 2. It is unknown if the member of the clergy or essential visitor is contagious
16 with a communicable disease that poses a substantial risk to others and adequate
17 precautions are not available to reasonably prevent the member of the clergy or
18 essential visitor from infecting others at the assisted living facility or nursing home.

19 3. The resident is known or suspected to be contagious with a communicable
20 disease that poses a substantial risk to others and adequate precautions are not
21 available to reasonably prevent the member of the clergy or essential visitor from
22 becoming infected by the resident.

23 4. The resident has expressed that the resident does not wish to visit with the
24 member of the clergy or essential visitor.

1 (c) If the federal centers for disease control and prevention or the federal
2 centers for medicare and medicaid services issues guidance that is more restrictive
3 in allowing visitation than par. (a), an assisted living facility or nursing home may
4 comply with that guidance instead of complying with par. (a).

5 (4) COMPLAINTS. An individual may file a complaint with the department
6 against an assisted living facility or a nursing home for failure to comply with this
7 section.

8 (5) IMMUNITY. A health care professional, assisted living facility, nursing home,
9 or employee, agent, or contractor of an assisted living facility or nursing home is
10 immune from any civil or criminal liability for any act or omission while allowing
11 visitation pursuant to sub. (3) (a).

12 **SECTION 2.** 50.373 of the statutes is created to read:

13 **50.373 Visitation by essential visitor or clergy during a communicable**
14 **disease outbreak. (1) DEFINITIONS.** In this section:

15 (a) “Essential visitor” means any of the following:

16 1. An individual to visit and provide support to a patient in a hospital who is
17 designated by the patient or the patient’s guardian or agent under an activated
18 power of attorney for health care.

19 2. The guardian of a patient in a hospital or the agent under an activated power
20 of attorney for health care of a patient in a hospital.

21 (b) “Hospital” has the meaning given in s. 50.33 (2).

22 (c) “Member of the clergy” has the meaning given in s. 765.002 (1).

23 (2) APPLICABILITY. At any time a hospital limits visitors due to an outbreak or
24 epidemic of communicable disease in the community in which the hospital is located,
25 the hospital shall conform its visitation policy to this section.

1 **(3) HOSPITAL VISITATION DURING A COMMUNICABLE DISEASE OUTBREAK.** (a) A
2 hospital shall allow the following visitations, except as provided in pars. (b) and (c):

3 1. At least one member of the clergy may visit a patient to pray with the patient
4 or offer spiritual support for the patient in any of the following situations:

5 a. The patient is nearing end of life.

6 b. The patient is grieving the recent death of a friend or family member and has
7 requested spiritual support.

8 c. The patient is experiencing a life-threatening condition identified in the
9 hospital's visitation policy and has requested spiritual support.

10 2. At least one essential visitor may visit a patient in any of the following
11 situations:

12 a. The patient is nearing end of life.

13 b. The patient is grieving the recent death of a friend or family member.

14 c. In the judgment of the attending health care professional, as defined in s.
15 154.01 (1r), the benefits of the presence of the essential visitor outweighs the
16 potential negative impacts that the essential visitor's presence might have on other
17 patients, visitors, and staff in the hospital.

18 (b) A hospital may deny visitation with a patient to a member of the clergy or
19 an essential visitor if any of the following applies:

20 1. The member of the clergy or essential visitor refuses to comply with any
21 policies of the hospital that are in place to protect the health and safety of the member
22 of the clergy or essential visitor, other visitors, patients, and staff in the hospital.

23 2. It is unknown if the member of the clergy or essential visitor is contagious
24 with a communicable disease that poses a substantial risk to others and adequate

1 precautions are not available to reasonably prevent the member of the clergy or
2 essential visitor from infecting others at the hospital.

3 3. The patient is known or suspected to be contagious with a communicable
4 disease that poses a substantial risk to others and adequate precautions are not
5 available to reasonably prevent the member of the clergy or essential visitor from
6 becoming infected by the patient.

7 4. The patient has expressed that the patient does not wish to visit with the
8 member of the clergy or essential visitor.

9 5. The hospital's policy requires the patient, or the patient's guardian or agent
10 under an activated power of attorney for health care, to consent to the visitation and
11 that consent has not been given.

12 6. The patient is in the custody of a law enforcement officer and the law
13 enforcement officer refuses to allow access to the patient for the visitation.

14 (c) If the federal centers for disease control and prevention or the federal
15 centers for medicare and medicaid services issues guidance that is more restrictive
16 in allowing visitation than par. (a), a hospital may comply with that guidance instead
17 of complying with par. (a).

18 (4) COMPLAINTS. An individual may file a complaint with the department
19 against a hospital for failure to comply with this section.

20 (5) IMMUNITY. A health care professional, hospital, or employee, agent, or
21 contractor of a hospital is immune from any civil or criminal liability for any act or
22 omission while allowing visitation pursuant to sub. (3) (a).

23 **SECTION 3.** 146.95 (2) (b) (intro.) of the statutes is amended to read:

