

By Senator Torres

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1 A bill to be entitled
2 An act relating to long-term care facility residents;
3 amending s. 400.022, F.S.; requiring that providers of
4 certain services to a resident of a nursing home
5 facility have the right to have reasonable access to
6 the resident which is free of charge; amending s.
7 429.28, F.S.; prohibiting an assisted living facility
8 from charging providers of certain services to a
9 resident for reasonable access to the resident;
10 requiring that reasons for a resident's relocation
11 from an assisted living facility be provided to the
12 resident or the resident's legal representative;
13 requiring a copy of a notice of relocation or
14 termination of residency from an assisted living
15 facility to be sent to a representative of the Long-
16 Term Care Ombudsman Program within a specified
17 timeframe; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Paragraph (c) of subsection (1) of section
22 400.022, Florida Statutes, is amended to read:

23 400.022 Residents' rights.—

24 (1) All licensees of nursing home facilities shall adopt
25 and make public a statement of the rights and responsibilities
26 of the residents of such facilities and shall treat such
27 residents in accordance with the provisions of that statement.
28 The statement shall assure each resident the following:

29 (c) Any entity or individual that provides health, social,

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30 legal, or other services to a resident has the right to have
31 reasonable access to the resident which is free of charge. The
32 resident has the right to deny or withdraw consent to access at
33 any time by any entity or individual. Notwithstanding the
34 visiting policy of the facility, the following individuals must
35 be permitted immediate access to the resident:

36 1. Any representative of the federal or state government,
37 including, but not limited to, representatives of the Department
38 of Children and Families, the Department of Health, the Agency
39 for Health Care Administration, the Office of the Attorney
40 General, and the Department of Elderly Affairs; any law
41 enforcement officer; any representative of the State Long-Term
42 Care Ombudsman Program; and the resident's individual physician.

43 2. Subject to the resident's right to deny or withdraw
44 consent, immediate family or other relatives of the resident.
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46 The facility must allow representatives of the State Long-Term
47 Care Ombudsman Program to examine a resident's clinical records
48 with the permission of the resident or the resident's legal
49 representative and consistent with state law.

50 Section 2. Paragraphs (d) and (k) of subsection (1) of
51 section 429.28, Florida Statutes, are amended to read:

52 429.28 Resident bill of rights.—

53 (1) No resident of a facility shall be deprived of any
54 civil or legal rights, benefits, or privileges guaranteed by
55 law, the Constitution of the State of Florida, or the
56 Constitution of the United States as a resident of a facility.
57 Every resident of a facility shall have the right to:

58 (d) Unrestricted private communication, including receiving

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59 and sending unopened correspondence, access to a telephone, and
60 visiting with any person of his or her choice, at any time
61 between the hours of 9 a.m. and 9 p.m. at a minimum. Upon
62 request, the facility shall make provisions to extend visiting
63 hours for caregivers and out-of-town guests, and in other
64 similar situations. A facility may not charge a fee to any
65 entity or individual that provides health, social, legal, or
66 other services to a resident for that entity or individual to
67 have reasonable access to the resident.

68 (k) At least 45 days' notice of relocation or termination
69 of residency from the facility unless, for medical reasons, the
70 resident is certified by a physician to require an emergency
71 relocation to a facility providing a more skilled level of care
72 or the resident engages in a pattern of conduct that is harmful
73 or offensive to other residents. In the case of a resident who
74 has been adjudicated mentally incapacitated, the guardian shall
75 be given at least 45 days' notice of a nonemergency relocation
76 or residency termination. Reasons for relocation shall be set
77 forth in writing in the notice and provided to the resident or
78 the resident's legal representative. A copy of the notice shall
79 be sent to a representative of the Long-Term Care Ombudsman
80 Program within 24 hours. In order for a facility to terminate
81 the residency of an individual without notice as provided
82 herein, the facility shall show good cause in a court of
83 competent jurisdiction.

84 Section 3. This act shall take effect July 1, 2019.