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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2023 Senate Bill 257**

**Senate Substitute Amendment 2**

### 2023 SENATE BILL 257

Senate Bill 257 expands health care facilities' obligation to allow patients and residents to receive visitors, subject to COVID-19 infection protocols.

The bill requires certain long-term care facilities to grant residents compassionate care visitation based on the COVID-19 infection rate in the county, and requires a hospital or primary care facility to allow certain visitation for children and adult patients, but may restrict such visitation under certain circumstances.

The bill also requires a hospice to allow a patient to have in-person visitation at reasonable times with individuals designated by the patient or a guardian, spouse, or support person.

In addition, the bill requires any health care facility to allow a clergy member or lay person to have in-person visitation with a patient to pray or offer spiritual support.

The bill permits a health care facility to establish a visitation policy which limits or restricts visitation in all of the following circumstances: when the presence of visitors would be medically or therapeutically contraindicated; the presence of visitors would interfere with the care of or rights of any patient or resident; visitors are engaging in disruptive, threatening, or violent behavior toward any staff member, patient, or other visitor; or visitors are noncompliant with the health care facility's policy.

The bill directs the Department of Health Services (DHS) to develop informational material regarding health care facility visitation, to present the informational material to the appropriate legislative committees, and to update the informational material as needed to allow for the maximum visitation possible in health care facilities. Under the bill, health care facilities must make the informational material available to patients and residents.

The bill provides that patients may file complaints with appropriate state agencies and licensing boards for a health care facility's violation of the provisions of this bill, and state agencies and licensing boards must investigate and penalize health care facilities for failure to comply with this bill. However, the bill prohibits a state agency from taking action against a health care facility for granting visitors access to the facility or for the actions and omissions of those visitors.

### SENATE SUBSTITUTE AMENDMENT 2

Senate Substitute Amendment 2 replaces the bill by instead creating visitation policies for a more limited list of facilities, which includes certain assisted living facilities, nursing homes, and hospitals, that apply only when such a facility limits visitors due to an outbreak or epidemic of communicable disease in the community.

The amendment limits visitation to “essential visitors,” which are people designated under an activated power of attorney for health care, and members of the clergy, and specifies circumstances under which an essential visitor or member of the clergy must be allowed to visit, and may be denied by a facility.

Specifically, in an assisted living facility or nursing home, with certain exceptions, a member of the clergy must be allowed to visit, and an essential visitor must be allowed to visit, if certain circumstances are present, including if the resident has been recently admitted to the facility, the resident is grieving the recent death of a relative or friend, the resident is nearing end of life, or it is determined that the benefits of the presence of the essential visitor outweighs the potential negative impacts that the essential visitor’s presence might have on others in the facility.

The exceptions under which an assisted living facility or nursing home may deny visitation from an essential visitor or member of the clergy are if the person refuses to comply with health and safety policies, it is unknown if the visitor is contagious with a communicable disease that poses a substantial risk to others and adequate precautions are not available to reasonably prevent infection, the resident is known or suspected to be contagious with a communicable disease that poses a substantial risk to others and adequate precautions are not available to reasonably prevent infection, or the resident has expressed that the resident does not wish to visit with the visitor.

The amendment’s provisions for hospitals are slightly different. Specifically, with certain exceptions, a hospital must allow visitation by at least one member of the clergy to pray with the patient or offer spiritual support for the patient in any of the following situations: the patient is nearing end of life; the patient is grieving the recent death of a relative or friend; or the patient is experiencing a life-threatening condition identified in the hospital’s visitation policy and has requested spiritual support. A hospital must allow visitation by an essential visitor if certain circumstances are present, including if the patient is grieving the recent death of a relative or friend, the patient is nearing end of life, or it is determined that the benefits of the presence of the essential visitor outweighs the potential negative impacts that the essential visitor’s presence might have on others in the facility.

The exceptions under which a hospital may deny visitation from an essential visitor or member of the clergy are the same as for an assisted living facility or nursing home, with two additions: the hospital’s policy requires the patient, or the patient’s guardian or agent under an activated power of attorney for health care, to consent to the visitation and that consent has not been given; or the patient is in the custody of a law enforcement officer and the law enforcement officer refuses to allow access to the patient for the visitation.

The amendment further provides that, in any of the facilities covered by the bill, if the federal Centers for Disease Control and Prevention or the federal Centers for Medicare and Medicaid Services issues guidance that is more restrictive than the provisions of the bill, the facility may comply with that more restrictive guidance. Additionally, the amendment allows individuals to file complaints with DHS if a facility fails to comply with the provisions of the bill, and extends immunity from any civil or criminal liability to facilities and their employees for any act or omission while allowing visitation.

## **BILL HISTORY**

Senator Jacque offered Senate Substitute Amendment 2 on November 28, 2023. On December 7, 2023, the Senate Committee on Health voted to recommend adoption of the substitute amendment, and passage of the bill, as amended, on votes of Ayes, 4; Noes, 2.

For a full history of the bill, visit the Legislature’s [bill history page](#).

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