

TITLE 39
HEALTH AND SAFETY

CHAPTER 98
ESSENTIAL CAREGIVERS

39-9801. DEFINITIONS. As used in this chapter:

- (1) "Assistance" means aid in meeting daily living needs.
- (2) "Essential caregiver" means a patient's or resident's spouse, adult child, parent, guardian, conservator, health care agent, or surrogate decision-maker as described in section [39-4504](#), Idaho Code, and may also include any person or persons designated by a patient, resident, or surrogate decision-maker to visit the patient or resident at the facility. The patient, resident, or surrogate decision-maker may revoke the designation of essential caregiver at any time. A facility may not:
 - (a) Limit the number of essential caregivers that may be designated by a patient, resident, or surrogate decision-maker; or
 - (b) Define the term "essential caregiver" more narrowly than the term is defined in this section.
- (3) "Facility" means an institution providing health care services, a health care setting, or a setting in which to receive assistance, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, nursing facilities, skilled nursing centers, residential treatment centers, rehabilitation and other therapeutic health settings, or assisted living facilities.
- (4) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.
- (5) "Patient" means a person seeking or receiving health care services at a facility.
- (6) "Resident" means a person seeking or receiving assistance at a facility.

[(39-9801) 39-9701, added 2022, ch. 134, sec. 1, p. 500; am. and redesign. 2023, ch. 218, sec. 12, p. 615; am. and redesign. 2023, ch. 300, sec. 1, p. 910; am. 2024, ch. 241, sec. 1, p. 860.]

39-9802. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that:

- (a) Idaho families have a constitutionally protected liberty interest in companionship and society with one another;
 - (b) The access of patients and residents in certain facilities to their family, friends, advocates, clergy, and advisers has been at times severely curtailed;
 - (c) Involuntary isolation has deleterious effects on a person's health and well-being, and such effects can be severe and even deadly for persons already in a frail state of health; and
 - (d) No person should be required to surrender the ability to associate simply because the person needs care.
- (2) In enacting this chapter, it is the intent of the legislature to guarantee and protect the right of Idahoans to be visited by essential caregivers of their choosing when staying in a health care or assistance facility. The provisions of this chapter should be broadly construed in the light most favorable to serving this intent.

[(39-9802) 39-9702, added 2022, ch. 134, sec. 1, p. 500; am. and redesign. 2023, ch. 218, sec. 12, p. 615; am. and redesign. 2023, ch. 300, sec. 1, p. 910; am. 2024, ch. 241, sec. 2, p. 861.]

39-9803. RIGHT TO ESSENTIAL CAREGIVERS. (1) A patient or resident has the right to in-person visitation from an essential caregiver while receiving assistance or health care services at a facility, even if other visitors are being excluded by the facility. However, the essential caregiver must follow safety and other protocols imposed by the facility, and a facility may place reasonable restrictions as to where and when the essential caregiver may visit and the number of essential caregivers who may visit at the same time. For purposes of this subsection, a restriction is reasonable if the restriction:

- (a) Is necessary to prevent the disruption of assistance or health care services to the patient or resident; and
 - (b) Does not interfere with the patient's or resident's general right to visitation by essential caregivers.
- (2) If a facility is restricting overall visitation for patients and residents, the facility shall, at the time of intake or as soon as practicable:

- (a) Notify a patient, resident, or surrogate decision-maker of the right to:
 - (i) Designate essential caregivers; and
 - (ii) Remove individuals from the list of essential caregivers;
- (b) Explain to a patient, resident, or surrogate decision-maker that an essential caregiver may be any person and is not required to be a formal caregiver;
- (c) Provide each patient, resident, or surrogate decision-maker an opportunity to designate essential caregivers;
- (d) Provide each person with legal authority to designate essential caregivers the ability to restrict or remove any essential caregivers from any visitation list for the patient; and
- (e) Accommodate a patient's, resident's, or surrogate decision-maker's request to have essential caregivers visit within the limits prescribed by this section. If the patient or resident is a minor or incapacitated, visitation requests must be approved by a person with legal authority to make decisions on behalf of the patient or resident, such as a parent, guardian, or conservator.

(3) Patients who are in the custody of a peace officer and all prisoners committed to the custody of the department of correction or confined in a correctional facility as defined in section [18-101A\(1\)](#), Idaho Code, shall be subject to the visitation terms set by the custodial entity.

[(39-9803) 39-9703, added 2022, ch. 134, sec. 1, p. 500; am. and redesign. 2023, ch. 218, sec. 12, p. 615; am. and redesign. 2023, ch. 300, sec. 1, p. 910; am. 2024, ch. 241, sec. 3, p. 861.]