

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1139

H.P. 817

House of Representatives, March 22, 2021

**An Act To Authorize and Regulate Visitation of Essential
Caregivers at Long-term Care Facilities**

(EMERGENCY)

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LIBBY of Auburn.
Cosponsored by Representatives: EVANGELOS of Friendship, FAY of Raymond,
HASINFUS of Readfield, MORALES of South Portland, PERRY of Calais, WARREN of
Hallowell, WHITE of Waterville.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** residents in long-term care facilities are being denied visits by family and
4 friends, causing a negative impact on residents' mental and physical health; and

5 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
6 the meaning of the Constitution of Maine and require the following legislation as
7 immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,

9 **Be it enacted by the People of the State of Maine as follows:**

10 **Sec. 1. 22 MRSA §7922, sub-§3** is enacted to read:

11 **3. Essential caregiver.** "Essential caregiver" means a person chosen by a resident of
12 a long-term care facility who is allowed to visit the facility at any time to visit that resident
13 whenever the resident requests. The essential caregiver may personally provide assistance
14 to the resident with the activities of daily living as defined in section 7302, subsection 1-A
15 or may provide emotional support and company to the resident.

16 **Sec. 2. 22 MRSA §7926** is enacted to read:

17 **§7926. Right to visit by essential caregiver**

18 **1. Visits.** An essential caregiver for a resident of a long-term care facility may enter
19 a long-term care facility to provide services to the resident or visit the resident at any time
20 the resident requests. The long-term care facility may not prevent the essential caregiver
21 from entering the facility at times when the facility is limiting the entry of family members
22 and members of the public because of a case of an infectious disease or other reason.

23 **2. Limitations for essential caregivers.** Any limitations of entry that apply to direct
24 care employees of the long-term care facility also apply to essential caregivers. Those
25 limitations may include, but are not limited to, requirements for illness screening and
26 testing and wearing of personal protective equipment and clothing. Any costs for illness
27 testing are the responsibility of the essential caregiver.

28 **3. Additional limitations.** An essential caregiver may be limited by the long-term
29 care facility from visiting or approaching any resident or employee in the long-term care
30 facility other than the resident that the essential caregiver has a right to visit. The long-
31 term care facility may establish a minimum distance between the essential caregiver and
32 other residents or employees of the facility but may not establish such a distance between
33 the essential caregiver and the resident the essential caregiver has a right to visit.

34 **4. Change of essential caregiver; right not to receive visits.** A resident may have
35 only one essential caregiver at a time. A resident may name a different person as an
36 essential caregiver as long as the resident, essential caregiver and director of the facility
37 agree. A resident may prohibit or defer a visit from the essential caregiver at any time.

38 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
39 takes effect when approved.

1 **SUMMARY**

2 This emergency bill establishes the right of a resident of a long-term care facility to
3 designate a person as an essential caregiver who may visit the resident, at the request of the
4 resident, at any time and who may not be prohibited from visiting because of an outbreak
5 of disease or other reason. The essential caregiver is subject to the same limitations of
6 behavior and entry as employees of the facility, including requirements for illness screening
7 and testing and use of personal protective equipment. The facility may prevent the essential
8 caregiver from approaching any other person in the facility except for the resident. The
9 resident of the facility may have only one essential caregiver at a time.