AN ACT

Providing for essential family caregivers in facilities during disaster emergencies.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Essential Family Caregiver Designation Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Communicable disease." As defined in section 2(c) of the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955.

"Compassionate care situation." Any of the following:

(1) An end of life situation.

(2) A resident struggling with the change in environment.
and lack of physical family support who was living with
family before being recently admitted to a facility.

(3) A resident who is grieving after a friend or family
cmember recently passed away.

(4) A resident who is experiencing weight loss or
dehydration and needs cueing and encouragement with eating or
drinking which was previously provided by a family member or
caregiver.

(5) A resident who is experiencing emotional distress,
is seldom speaking or crying more frequently and who used to
talk and interact with others.

"Essential family caregiver." As follows:

(1) Any of the following individuals who are at least 18
years of age and who, prior to visitor restrictions, were
regularly engaged with a resident at least once per week:

   (i) An immediate family member.

   (ii) A caregiver of the resident who is not employed
       by a facility.

(2) The term does not include an employee of a
regulatory agency unless the employee is an immediate family
member of the resident.

"Facility." Any of the following:

(1) An assisted living residence as defined in section
1001 of the act of June 13, 1967 (P.L.31, No.21), known as
the Human Services Code.

(2) A personal care home as defined in section 1001 of
the Human Services Code.

(3) An intermediate care facility for individuals with
an intellectual disability.

"Immediate family member." A spouse, child, stepchild,
parent, stepparent, grandparent, grandchild, brother,
stepbrother, sister, stepsister or like relative-in-law.

"Intermediate care facility for individuals with an
intellectual disability." The term shall have the same meaning
as the term "intermediate care facility for the mentally
retarded" in section 1905(d) of the Social Security Act (49
Stat. 620, 42 U.S.C. § 1396d(d)) on the effective date of this
definition.

"Secretary." The Secretary of Human Services of the
Commonwealth.

"State of disaster emergency." A state of disaster emergency
declared under 35 Pa.C.S. § 7301(c) (relating to general
authority of Governor) that is due to a communicable disease.

Section 3. Essential family caregiver.

(a) Designation.--Notwithstanding any other provision of
law, during a state of disaster emergency the secretary shall
require a facility to designate at least one essential family
caregiver per resident to provide companionship and assist with
activities requiring one-on-one direction, including
compassionate care situations. Only facilities that have the
ability to follow necessary precautions outlined by the Federal
and State Government may designate an essential family
caregiver.

(b) Visitation.--Visitation by an essential family caregiver
may be conducted through different means based on a facility's
structure and the needs of the residents, such as use of
resident rooms, dedicated visitation spaces and the outdoors and
visitation in circumstances beyond compassionate care
situations. The following shall apply:

(1) Except for on-going use of virtual visits,
facilities may still restrict visitation by an essential family caregiver due to any of the following:

(i) A COVID-19 county positivity rate greater than 10% according to the United States Department of Health and Human Services Centers for Medicare and Medicaid Services.

(ii) The facility's COVID-19 status.

(iii) A resident's COVID-19 status.

(iv) Visitor symptoms.

(2) Except as provided under paragraph (1), a facility may not restrict visitation by an essential family caregiver without a reasonable clinical or safety cause.

(c) Essential family caregiver requirements.--The decision to designate an essential family caregiver may be individualized and integrated with resident-centered care planning. A visit shall be held outdoors whenever practicable. For inside visits, the following shall apply:

(1) Designation shall be by the facility executive director or equivalent position or designee, in consultation with the resident and the resident's representative, and only upon agreement by the resident and their representative.

(2) A schedule and the amount of time allowed in a facility by an essential family caregiver shall be agreed to prior to an essential family caregiver entering a facility and may not exceed more than two hours per day.

(3) Notwithstanding any other provision of law, visitation shall be contingent upon the facility having no new COVID-19 cases in the last 14 days. No facility may conduct visitation during the time period the facility is conducting outbreak testing.
(4) All who enter the facility must be screened for signs and symptoms of COVID-19 and the denial of entry of those with signs or symptoms must occur.

(5) Proper hand hygiene must be implemented.

(6) The wearing of a face covering or mask covering both the mouth and nose must be enforced.

(7) Physical distancing at least six feet between individuals shall be maintained by an essential family caregiver with staff and other residents while in the facility.

(8) An essential family caregiver shall provide care and support similar in nature as provided prior to the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of disaster emergency.

(9) An essential family caregiver shall adhere to any conditions specified by the facility.

(10) Restriction or revocation of essential family caregiver status shall be at the sole discretion of the facility executive director or equivalent position or designee.

Section 4. Effective date.

This act shall take effect immediately.