

The Essential Caregivers Act

The Essential Caregivers Act, led by U.S. Representative Claudia Tenney, Senator Richard Blumenthal, U.S. Representative John B. Larson, and Senator John Cornyn allows Essential Caregivers access to long-term facilities to provide assistance with activities of daily living, as appropriate, or to provide emotional support and companionship to a resident during any period in which regular visitation is restricted.

It is vital that we as a society recognize the critical role that family members play in the care and wellbeing of residents in long-term care facilities. For more than a year during the COVID-19 pandemic, residents in these facilities were separated from their loved ones – far too many lost their will to survive, and many others suffered untold emotional, psychological, and physical pain as a result of this separation. This bill would ensure that in any future emergency, at least one designated essential caregiver is able to access their loved ones in a manner consistent with all applicable health and safety protocols.

Essential Caregiver Designation

- At least one individual can be designated as an Essential Caregiver by a facility resident in the event of an emergency and have the right to always have in-person access to the resident.
- If a facility resident is not able to select a caregiver due to either physical or mental disabilities, the resident’s Resident Representative can make the designation for them.
- Under current federal law, outside of a public health emergency, residents have the right to receive an unlimited number of caregivers for an unrestricted amount of time. This bill strikes a balance by protecting public health, while safeguarding the wellbeing of resident; specifically, the bill would allow a limited number of caregivers into a facility during a public health emergency, in addition to other instances in which regular visitation is restricted.
- The Essential Caregiver program applies to skilled nursing facilities, nursing facilities, intermediate care facilities, and inpatient rehabilitation facilities. Any such facility receiving Medicare and Medicaid funding is required to participate in the program.

Providing Care for Loved Ones

- An Essential Caregiver is defined as an individual designated by or on behalf of the resident, who will provide assistance to the resident, which may include activities of daily living, emotional support or companionship.
- Access to Essential Caregivers allows quality care for the resident, transparent and timely communication with medical professionals, the right to advocate for the patient, the right to participate in developing treatment plans, and the right to visitation.
- Such access also ensures civil rights and individual liberties are not violated.
- Essential Caregivers shall be provided unrestricted access to the resident. During a period in which regular visitation is restricted by order of a Federal, State, or local authority,

facilities may restrict access for an initial period not longer than 7 days and for an additional period of not longer than 7 days with approval of the state department of health in which the facility is located.

Establishing Strict Safety Protocols

- The safety and wellbeing of residents and staff in long-term facilities is always a priority. The bill requires Essential Caregivers to follow the same safety protocols as facility staff, which must be clearly specified and may be no more restrictive than the safety protocols applicable to staff.
- Eligibility to participate as an Essential Caregiver is contingent upon an individual's strict compliance with all facility safety and health standards.

Oversight Measures

- In the event an Essential Caregiver is denied access in violation of the program, facilities are required to provide written justification to the caregiver and resident within 24 hours.
- The Secretary of Health and Human Services is required to establish a process to receive program complaints and adjudicate them in a timely manner.