



2021 South Dakota Legislature

House Bill 1139

HOUSE HEALTH AND HUMAN SERVICES ENGROSSED

Introduced by: **Representative Phil Jensen**

1 **An Act to require that assisted living facilities create and post visitation policies.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That a NEW SECTION be added:

4 **34-12-67. Assisted living facility--Resident--Visitation rights.**

5 Each resident of an assisted living facility has a right to receive visitors of the
 6 resident's own choosing, at the time of the resident's own choosing, provided the visitation
 7 does not impose upon the rights of another resident.

8 In addition to those persons granted access to a resident in accordance with their
 9 official capacities, a facility must provide access to any resident by:

10 (1) A member of the resident's immediate family and other relatives of the resident,
 11 subject to reasonable clinical and safety restrictions and the resident's right to deny
 12 or withdraw consent;

13 (2) Any other person visiting with the consent of the resident, subject to reasonable
 14 clinical and safety restrictions and the resident's right to deny or withdraw consent;
 15 and

16 (3) Any person providing health, social, legal, or other services to the resident, subject
 17 to reasonable clinical and safety restrictions and the resident's right to deny or
 18 withdraw consent.

19 **Section 2.** That a NEW SECTION be added:

20 **34-12-68. Visitation policies and procedures--Limitations and restrictions--**
 21 **Notice.**

22 An assisted living facility shall post on its website and in a conspicuous place within
 23 the facility, all policies and procedures pertaining to the visitation rights set forth in § 34-
 24 12-67. The facility shall, prior to the signing of an occupancy contract with a resident and
 25 at least annually thereafter, provide electronic copies of the visitation policies and

1 procedures to the resident and the resident's designated family members and shall provide
2 printed copies upon request. Each facility shall also post its visitation policies and
3 procedures on its website.

4 If in accordance with federal or state laws, or if in accordance with best clinical
5 practices during a health emergency, the visitation policies and procedures must be limited
6 or restricted, the facility shall inform each resident and designated family members and
7 shall provide electronic or, if requested, printed notices regarding the limitations and
8 restrictions, the reason and rationale for such, and the period of time that the limitations
9 and restrictions are to remain in effect. The facility shall also post such information on its
10 website.

11 Any limitations and restrictions instituted in accordance with this section must be
12 reviewed at least every thirty days. The facility shall provide notice of the review to
13 residents and designated family members, encourage the submission of written and oral
14 comments, and give due consideration to the submissions.

15 If after the required review the facility determines that the limitations or
16 restrictions are to be continued, the facility shall post notice of the continuation on the
17 facility's website and in a conspicuous place within the facility. The notice must include:

18 (1) The citation of the federal or state law being implemented; or

19 (2) A link to evidence-based research indicating that the continuation is clinically
20 necessary for the health and safety of the residents.

21 A printed copy of the applicable laws or evidence-based research must be provided
22 upon request.

23 **Section 3.** That a NEW SECTION be added:

24 **34-12-69. Guidance documents--Visitation--Posting requirement.**

25 During a health emergency, each facility shall post on its website, the most recent
26 guidance documents provided from or through the Department of Health and pertaining
27 to the imposition of restrictions or limitations on visitation and the conditions under which
28 such restrictions or limitations may be reduced or removed.