



STATE OF NORTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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GOVERNOR

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SECRETARY

Clifford's Law **Visitation Protocols**  
June 27, 2022  
*Effective immediately*

These visitation protocols were developed and issued by the NC Department of Health and Human Services pursuant to Session Law 2021-145 ([HB 351](#)). This legislation, known as "Clifford's Law," is applicable to Nursing Homes, Combination Homes, and Adult and Family Care Homes, and they are triggered during a disaster declaration or emergency that results in the suspension or restriction of a facility's normal visitation policy.

Prior to their finalization, these visitation protocols were shared with advocacy, provider and other key stakeholder groups to obtain their input.

Protocol 1: Collect existing information about the disaster declaration or emergency and determine if the definition of disaster declaration or emergency is met:

- (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).
- (2) Emergency. – As defined in G.S. 166A-19.3(6).

See N.C Gen. Stat. § 131D-7.1(a)(1)&(2) and §131E-112.5(a)(1)&(2).

Anytime there is a declared disaster or emergency pursuant to N.C. Gen. Stat. § 166A, the facility is required to provide, at a minimum, visitation pursuant to Clifford's Law Visitation Protocol. See N.C Gen. Stat. § 131D-7.2 and §131E-112.6. Specifically, the law requires that each facility resident be permitted to have a minimum of two visits per month by an individual they designate.

Protocol 2: Assess the impact the disaster declaration or emergency may have on the normal visitation policy of the facility in consultation with appropriate state and/or local agencies (local emergency management agency, local health department, NC Department of Public Safety Emergency Management Division, NCDHHS Division of Public Health, and/or NCDHHS Division of Health Service Regulation).

Protocol 3: If the disaster declaration or emergency has an impact on a facility's normal visitation, identify measures to allow for, at a minimum, Clifford's Law Visitation Protocols:

Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor, or if the preapproved visitor is unavailable, the preapproved alternate visitor, shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or

curtailed for any reason during the declared disaster or emergency. See N.C Gen. Stat. § 131D-7.1(b)(1) and § 131E-112.5(b)(1).

Clifford's Law establishes the minimum requirement for visitation during a declared disaster or emergency where normal visitation is curtailed.

In the event that the resident lacks the capacity to make a designation as determined by his/her attending physician then the authority to designate a preapproved visitor, or preapproved alternative visitor, shall default to his/her legal guardian, power of attorney, or responsible party of record.

Protocol 4: Develop a visitation plan and procedures for implementing Clifford's Law Visitation Protocols during the disaster or emergency. Note:

Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services' (CMS) directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy. See N.C Gen. Stat. § 131D-7.1(b)(3) and § 131E-112.5(b)(3).

The visitation plan and procedures for Clifford's Law Visitation Protocols shall include the following:

1. Facilities will assure that the principles of infection prevention will be followed including requirements for masking and other personal protective equipment during visitation. If an identified visitor refuses to follow requirements of infection prevention, the visitor will be excluded from visitation. The facility must maintain documentation of the individual who does not comply with policies.
2. If a visitor has signs or symptoms of a communicable condition that poses a risk to residents or staff, or is unable or unwilling to adhere to the principles of infection prevention, in consultation with the local health department as necessary, the visitor will be excluded from visitation.
3. Designation of an indoor and/or outdoor visitation area.

In addition, visitation during a declared disaster or emergency may be subject to additional guidance issued by Executive Order, Secretarial Order, or Centers for Medicare and Medicaid Services directives.

Protocol 5: Identify the strategy for implementation of the visitation plan and procedures for Clifford's Law Visitation Protocols.

Protocol 6: Train the facility staff on their roles with the visitation plan and procedures for Clifford's Law Visitation Protocols.

Protocol 7: Prior to admission, provide residents with written notification of the facility's specific visitation plan and procedures, including how that plan and its procedures are aligned with Clifford's Law Visitation Protocols, that includes contact information for the regional Long Term Care Ombudsman.<sup>1</sup>

Protocol 8: It shall be the role of Regional Long-Term Care Ombudsman to monitor and report on the activation of Clifford's Law Visitation Protocols during an emergency declaration or other facility-based situation that adversely impacts normal visitation.

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<sup>1</sup> Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section. This is a requirement of Clifford's Law. See N.C Gen. Stat. § 131D-7.1(b)(2) and § 131E-112.5(b)(2).

Protocol 9: Correct any shortcomings and take prompt action to correct and prevent reoccurrence of shortcomings with the visitation plan and procedures for Clifford's Law Visitation Protocols.

Protocol 10: Terminate Clifford's Law Visitation Protocols and re-institute normal visitation policy when appropriate based on consultation with appropriate state and/or local agencies (i.e. local emergency management agency, local health department, NC Department of Public Safety Emergency Management Division, and/or NCDHHS Division of Public Health) as appropriate, or no later than the end of the disaster declaration or emergency.