

[DISCUSSION DRAFT]

119TH CONGRESS
2^D SESSION

H. R. _____

To amend titles XVIII and XIX of the Social Security Act to require certain facilities to permit visits from an essential caregiver during certain periods.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend titles XVIII and XIX of the Social Security Act
to require certain facilities to permit visits from an es-
sential caregiver during certain periods.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Essential Caregivers
5 Act of 2026”.

1 **SEC. 2. REQUIRING CERTAIN FACILITIES TO PERMIT VISITS**
2 **FROM AN ESSENTIAL CAREGIVER DURING**
3 **CERTAIN PERIODS.**

4 (a) NURSING FACILITIES AND SKILLED NURSING
5 FACILITIES.—

6 (1) IN GENERAL.—Sections 1819(c) and
7 1919(c) of the Social Security Act (42 U.S.C.
8 1395i–3(c); 1396r(c)) are each amended—

9 (A) in paragraph (3)—

10 (i) in subparagraph (D), by striking
11 “and” at the end;

12 (ii) in subparagraph (E), by striking
13 the period and inserting “; and”; and

14 (iii) by adding at the end the fol-
15 lowing new subparagraph:

16 “(F) implement and maintain, during any
17 period during which regular visitation at such
18 facility is suspended, the essential caregivers
19 program described in paragraph (7).”; and

20 (B) by adding at the end the following new
21 paragraph:

22 “(7) ESSENTIAL CAREGIVERS PROGRAM.—

23 “(A) IN GENERAL.—For purposes of sub-
24 paragraph (F) of paragraph (3), the essential
25 caregivers program described in this paragraph
26 is a program implemented by a facility de-

1 scribed in such paragraph under which such fa-
2 cility must—

3 “(i) allow each resident of such facil-
4 ity the ability to elect 2 essential caregivers
5 (as defined in subparagraph (D)) to have
6 in-person access to such resident at such
7 facility;

8 “(ii) allow each such resident to
9 amend such election at any time; and

10 “(iii) subject to subparagraph (B),
11 permit each such caregiver so elected by
12 such resident in-person access to such resi-
13 dent.

14 “(B) LIMITATIONS ON ACCESS.—

15 “(i) IN GENERAL.—The Secretary
16 may permit a facility described in subpara-
17 graph (A) to limit the access to an essen-
18 tial caregiver elected by a resident of such
19 facility in accordance with guidance issued
20 by the Secretary. Such guidance may—

21 “(I) permit such a facility to
22 deny such a caregiver in-person access
23 to such resident for the first 7 days
24 during the period during which reg-
25 ular visitation at such facility is sus-

1 pended (as described in paragraph
2 (3)(F)), but only if, during the period
3 during which such in-person access is
4 denied, such facility provides such
5 caregiver access to such resident
6 through an audio-visual telecommuni-
7 cations system;

8 “(II) provide reasonable accom-
9 modations to protect the rights of a
10 roommate of such resident; and

11 “(III) notwithstanding subclause
12 (I)—

13 “(aa) allow such a facility to
14 limit or deny such a caregiver ac-
15 cess to such resident if such care-
16 giver displays symptoms of a se-
17 rious infectious disease that
18 poses a significant risk to the
19 residents of such facility, but
20 only until such time as such care-
21 giver tests negative for such dis-
22 ease;

23 “(bb) allow such a facility to
24 deny such a caregiver access to
25 such resident if such caregiver

1 fails to follow the safety protocols
2 described in subparagraph (D);
3 and

4 “(cc) allow only 1 such care-
5 giver at a time in-person access
6 to such resident.

7 “(ii) NO LIMITATION ALLOWED FOR
8 END-OF-LIFE CARE OR IN SITUATIONS OF
9 SEVERE DISTRESS.—Notwithstanding
10 clause (i), a facility described in subpara-
11 graph (A) may not deny an essential care-
12 giver elected by a resident of such facility
13 under subparagraph (A) in-person access
14 to such resident, or limit the duration of
15 such in-person access, if—

16 “(I) such resident has declined to
17 the extent that the end-of-life stage is
18 imminent, as determined by the at-
19 tending physician of such resident (or
20 by such other practitioner as may be
21 specified by the Secretary); or

22 “(II) such resident is experi-
23 encing severe distress, as so deter-
24 mined by such physician or such other
25 practitioner.

1 “(C) PRESUMPTION OF ELECTION.—For
2 purposes of subparagraph (A), in the case of a
3 resident who is unable, by reason of cognitive
4 decline or mental disability, to make an election
5 described in such subparagraph, a resident rep-
6 resentative (as defined in section 483.5 of title
7 42, Code of Federal Regulations (or a successor
8 regulation)) of such resident shall be permitted
9 to make such election for such resident.

10 “(D) ESSENTIAL CAREGIVER DEFINED.—
11 For purposes of this paragraph, the term ‘es-
12 sential caregiver’ means, with respect to a resi-
13 dent of a facility described in subparagraph
14 (A), an individual who agrees to follow all pro-
15 tocols for physical safety and infection control
16 established by such facility, which shall be
17 clearly specified in writing and be not more re-
18 strictive than such protocols (including safety
19 standards and entry requirements) applicable to
20 staff of such facility.”.

21 (2) TIMELINE FOR INVESTIGATION OF COM-
22 PLAINTS.—Section 1128I(f)(2) of the Social Secu-
23 rity Act (42 U.S.C. 1320a–7j(f)(2)) is amended by
24 adding at the end the following new subparagraph:

1 “(C) PROCESS FOR COMPLAINTS RELATING
2 TO ESSENTIAL CAREGIVER ACCESS.—The com-
3 plaint resolution process established under sub-
4 paragraph (B) shall provide that, in the case of
5 a complaint relating to a violation of the re-
6 quirements of section 1819(c)(3)(F) or section
7 1919(c)(3)(F)—

8 “(i) the State survey and certification
9 agency shall prioritize the investigation of
10 such complaint; and

11 “(ii) the deadline for notifying the
12 complainant of the outcome of the inves-
13 tigation is not later than 3 days after such
14 complaint is received.”.

15 (b) LONG-TERM CARE HOSPITALS.—Section
16 1861(ccc)(4) of the Social Security Act (42 U.S.C.
17 1395x(ccc)(4)) is amended—

18 (1) in subparagraph (B), by striking “and” at
19 the end;

20 (2) in subparagraph (C), by striking the period
21 at the end and inserting “; and”; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(D) the institution implements and main-
25 tains, during any period during which regular

1 visitation at such institution is suspended, the
2 essential caregivers program described in sec-
3 tion 1819(c)(7) in the same manner as if such
4 institution were a skilled nursing facility.”.

5 (c) INPATIENT REHABILITATION FACILITIES.—Sec-
6 tion 1866(a)(1) of the Social Security Act (42 U.S.C.
7 1395cc(a)(1)) is amended—

8 (1) in subparagraph (X), by striking “and” at
9 the end;

10 (2) in subparagraph (Y), by striking the period
11 at the end and inserting “; and”; and

12 (3) by inserting after subparagraph (Y) the fol-
13 lowing new subparagraph:

14 “(Z) in the case of an inpatient rehabilitation
15 facility, to implement and maintain, during any pe-
16 riod during which regular visitation at such facility
17 is suspended, the essential caregivers program de-
18 scribed in section 1819(c)(7) in the same manner as
19 if such facility were a skilled nursing facility.”.

20 (d) INTERMEDIATE CARE FACILITIES FOR INDIVID-
21 UALS WITH INTELLECTUAL DISABILITIES.—Section
22 1905(d) of the Social Security Act (42 U.S.C. 1396d(d))
23 is amended—

24 (1) in paragraph (2), by striking “and” at the
25 end;

1 (2) in paragraph (3), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(4) the institution implements and maintains,
6 during any period during which regular visitation at
7 such institution is suspended, the essential care-
8 givers program described in section 1919(c)(7) in
9 the same manner as if such institution were a nurs-
10 ing facility.”.

11 (e) NONAPPLICABILITY OF WAIVERS.—Subpara-
12 graphs (A) and (B) of section 1135(b)(1) of the Social
13 Security Act (42 U.S.C. 1320b–5(b)(1)) are each amended
14 by inserting “(other than the requirements of sections
15 1819(c)(3)(F), 1861(ccc)(4)(D), 1866(a)(1)(Z),
16 1905(d)(4), and 1919(c)(3)(F))” after “requirements”.

17 (f) REGULATIONS.—The Secretary of Health and
18 Human Services shall promulgate regulations to carry out
19 the amendments made by this section not later than 18
20 months after the date of the enactment of this section.

21 (g) EFFECTIVE DATE.—The amendments made by
22 this section shall apply beginning 2 years after the date
23 of the enactment of this section.