



## **H.R.3733: The Essential Caregivers Act**

H.R. 3733: The Essential Caregivers Act, led by U.S. Representatives Claudia Tenney and John B. Larson, allows essential caregivers access to long-term facilities to provide care and support to a facility resident during any public health emergency. 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, residents in these facilities were separated from their loved ones – far too many lost their will to survive, and many others have suffered untold emotional, psychological, and physical pain as a result of this separation. This bill would ensure that in any future health emergency under Section 319, designated essential caregivers are always able to access their loved ones in a manner consistent with all applicable health and safety protocols.

### ***Essential Caregiver Designation***

- Up to two individuals can be designated as an Essential Caregiver by a facility resident in the event of a public health emergency and have the right to access 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 limiting the number of caregivers and visiting hours during a public health emergency.
- 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 who provides direct care consisting of activities of daily living, emotional support, or companionship to a resident.
- 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 access to residents for 12 hours each day, and in the case of end-of-life care, the access shall be unrestricted.

### ***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 articulated to all parties in writing.
- 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.

### **Groups Supporting this Legislation:**

- Advocates for COVID Nursing Home Residents
- Caregivers for Compromise (National, FL, CT, NY, TX, IN, IL, PA, KY, WV, TN, RI)
- The National Consumer Voice for Long Term Quality Care
- Essential Caregivers Coalition
- FACE for Seniors
- National Association of State Long-Term Care Ombudsman Programs (NASOP)
- Nursing Home Lives Matter
- North Dakota Advocacy for Long-Term Care