

Visitation Rights in California Long Term Care Facilities During the COVID-19 Emergency

CANHR is a private, nonprofit 501(c)(3) organization dedicated to improving the quality of care and the quality of life for long term care consumers in California.

* Please note that all visitation rules are subject to local public health orders that may be more restrictive.

Nursing Homes

Virtual Visitation (through phone, video, windows)	Outdoor Family Visitation	Indoor Family Visitation	Visits from Professionals	Compassionate Care Visitors	Rules for Visits	Notes
<p>The only form of visitation available when a facility is "experiencing a COVID-19 outbreak (one or more confirmed positive cases among the residents or staff)." CMS "encourages creative means of connecting residents and family members" and facilities urged "to take strong efforts to facilitate connections with residents, families, friends, and loved ones." CDPH encourages frequent video and phone call visits. While the guidelines merely encourage virtual visitation, CANHR believes the law (e.g., anti-disability discrimination) REQUIRES all reasonable accommodations to visitation, including ROBUST virtual visitation opportunities. Accommodating virtual visitation is critical while residents' in-person visitation rights are restricted.</p>	<p>Facilities MUST permit outdoor visitation unless there is a local public health order that prohibits it. There is no limit on how many visitors can visit in this way, although maybe not all at the same time.</p>	<p>Facilities MUST permit indoor visitation if they have</p> <ol style="list-style-type: none"> 1. no COVID-19 outbreak, 2. a decline in cases in the community; 3. no new COVID-19 cases in the facility for the past 14 days; 4. no staffing shortages and not using a COVID-19 staffing waiver; 5. an adequate testing plan per AFL 20-53; and 6. an approved COVID-19 Mitigation Plan. Only one designated visitor allowed per resident (per visit - more than one visitor may visit, just not at the same time). 	<p>Surveyors and Ombudsman MUST be permitted. Health care workers and nursing students SHOULD be permitted.</p>	<p>MUST be permitted to visit. Per CMS: "'compassionate care situations' does not exclusively refer to end-of-life situations." Compassionate Care is not defined but other CMS examples include visits to help a new resident transition to a facility and to comfort a resident after the death of a family member or friend. Facilities may confine these visits to "safe spaces" within the facility or outdoor visits. Facilities may limit the number of visitors to two per resident per visit. CMS also indicates that compassionate care visits that are not for "end of life" may be limited in number.</p>	<ol style="list-style-type: none"> 1. Visits must be scheduled in advance; 2. visitors screened for fever or COVID-19 symptoms; 3. social distancing (6 feet or more physical distancing); 4. residents and visitor wear facial coverings; 5. staff monitor to ensure compliance with infection control guidelines. 	<p>Support person visitors are encouraged (but not mandated), regardless of COVID-19 outbreaks or other conditions, for residents with physical, intellectual, developmental disabilities and/or cognitive impairments. No touching between visitors and residents or proximity less than 6 feet is permitted except perhaps in compassionate care visitation.</p>

Source: CA DPH AFLs 20-22.4, 20-38.2; CMS Memos QSO-20-14-NH and QSO-20-28-NH; CMS Frequently Asked Questions (re Visitation, 6-26-20)

Residential Care Facilities for the Elderly

Virtual Visitation (through phone, video, online)	Outdoor Family Visitation	Indoor Family Visitation	Visits from Professionals	Compassionate Care Visitors	Rules for Visits
<p>Facilities REQUIRED to make arrangements for alternate means of communication for visitors such as phone calls, video calls, and online communications.</p>	<p>Facilities MUST provide "limited visits" on the facility premises where there is 6 feet or more physical distancing, source control, and infection control. Guidance gives examples of "drive-by visits or visit through a resident's window." Outdoor visits, with all parties outside in a courtyard, patio, walkway, or parking lot, are not specifically addressed but are, at a minimum, permissible when the facility meets the five requirements for indoor visitation.</p>	<p>Facilities MUST allow visitation for "Essential Visitors" or "for medically necessary visits (e.g., end-of-life) or other urgent health or legal matters that cannot be postponed (e.g., estate planning, advance health care directives, Power of Attorney, transfer of property title)." "Medically necessary" is undefined but expressly includes end-of-life and likely includes visits to counter extreme depression or physical decline caused by isolation. In-person visitation permitted, but not required, when five criteria are satisfied: 1. There have been no new transmissions of COVID-19 at the facility for 14 days; 2. Facility is not experiencing staff shortages; 3. Facility has adequate supplies of PPE and essential cleaning supplies to care for persons in care; 4. Facility has adequate access to COVID-19 testing; and 5. Facility is requiring visitors to wear face coverings.</p>	<p>Facilities MUST allow visitation for Professionals: 1. when urgent health or legal matters cannot be postponed (e.g. estate planning, advance health care directives, Power of Attorney, transfer of property title); 2. for social workers who are legally responsible for a person's care to carry out their duties, 3. as otherwise required in the Visitation Waiver in PIN 20-09-CCLD, and 4. for CDSS, CDPH, local health department officials, healthcare providers, Ombudsman, and essential government authority to enter or conduct investigations at the facility.</p>	<p>End-of-life visits are characterized as an example of "medically necessary" visits and MUST be permitted as an exception to the visitation rights waiver.</p>	<p>Guidance describes various safety protocols/best practices, including:</p> <ol style="list-style-type: none"> 1. Visits should be scheduled in advance; 2. 6 feet or more physical distancing; 3. Both residents and visitors wear face coverings; 4. Staff monitoring infection control guidelines (e.g. large communal spaces, outdoor visits, space close to facility entrance to reduce traffic in facility); 5. To the extent possible, visits should take place outside (where appropriate, designate an outdoor area, such as the yard, patio, open porches, parking lot, or driveway for visits, weather permitting); 6. Limit the number of visitors at any one time to avoid having large groups congregate; 7. Screen all visitors for symptoms, including temperature screenings.

Source: CA DSS PINs [20-09-CCLD \(April 2, 2020\)](#) and [20-23-ASC \(June 26, 2020\)](#)

For more information about visitation in long term care facilities during the COVID-19 emergency, please visit
VisitationSavesLives.com



