**Policy Title:** Never Alone and Compassionate Caregiver Policy

**Effective:** March 19, 2025

**I. Purpose**

The purpose of this policy is to outline the procedures [Facility Name] will follow to comply with Ohio’s “Never Alone Act” (ORC 3729.60) and the Compassionate Caregiver Act (ORC 3721.20). This policy establishes the process for informing residents of their right to designate a resident representative who will have access and in-person visitation to the resident during an epidemic, pandemic, or other state of emergency.

The policy established the process for informing residents of their right to designate Resident Representative and describes the circumstances under which resident representatives may have access to residents, including during public health emergencies. It also defines exclusions, limitations, and protocols related to resident representative presence to ensure compliance with applicable regulations while maintaining a safe care environment.

**II. Scope**

This policy applies to [Facility Name] admitted residents and their designated resident representative, as well as the staff and contractors involved in the implementation of resident advocacy and visitation procedures.

**III. Definitions**

“Resident representative” – means, for the purposes of this policy, the term resident representative will be used to refer to an individual designated by the resident (or recognized under law) to act in support of the resident’s rights, care preferences, and visitation access. This term includes individuals who may otherwise be referred to as an advocate or compassionate caregiver under state or federal guidance.

“Compassionate caregiver” means an individual who provides in-person visitation to a long-term care facility resident in compassionate care situations.

“Advocate” means an individual who advocates on behalf of a resident.

**IV. Protocol**

**A. Admission and Resident Representative Designation**

At the time of a patient's or resident's admission to a [Facility Name] or at first opportunity after admission, the [Facility Name] will:

1. Inform the resident that the resident may designate an individual to serve as the resident's representative by:
2. Providing the resident a paper copy of the *Advocates in Congregate Care Settings Information Sheet* from the Ohio Department of Health.
3. Including information about the resident’s right to a resident representative in the Admission Packet.
4. Including information in the [Facility Name] Resident Handbook.
5. Provide the resident the opportunity to designate a resident representative during completion of the Admission Agreement using the form titled: (Insert Name of the Form in the Admission Agreement).
6. Obtain the resident’s consent regarding the disclosure of the resident’s medical information to the resident representative, as documented in the (Insert Name of the Form in the Admission Agreement).
7. Inform residents that they may revoke a resident representative designation at any time by informing [Facility Name] staff. After revocation, a resident may designate another individual to serve as the resident's representative.
8. Inform the resident that if the designated resident representative becomes ineligible (see Section IV.E), [Facility Name] will promptly provide the resident the opportunity to designate a new resident representative.
9. Provide the resident and resident representative with [Facility Name] visitation policy.

**B. Designation Without Resident Action**

If a resident is unable to designate a Resident Representative, [Facility Name] will recognize one of the following:

1. For a minor resident, the residential parent, legal custodian, or the court-appointed guardian;
2. An individual designated as an attorney in fact under a durable power of attorney for health care as described in section 1337.12 of the Ohio Revised Code;
3. An individual appointed by a court to act as the resident's guardian.

**C. Resident Representative Exclusion Criteria**

An individual may not be designated or may be removed as a Resident Representative if:

1. There is an adjudicated finding that the individual abused the resident.
2. The individual poses a serious risk to the resident's physical health.
3. The individual is excluded from visiting or communicating with the resident as described in division (F)(2)(i) of Rule 66.09 of the Rules of Superintendence for the Courts of Ohio.
4. The individual has physically interfered with, delayed, or obstructed the provision of any health care consented to by:
   1. The resident; or
   2. In the case of a minor resident, the minor's residential parent and legal custodian or the minor's guardian; the resident's attorney in fact under a durable power of attorney for health care; or
   3. The resident's court appointed guardian;
5. The individual has engaged in conduct prohibited under Title XXIX of the Revised Code, including as described in sections 2903.13, 2903.22, and 2917.22 of the Revised Code, against a staff member or licensed health care practitioner who is employed by, or under contract with, [Facility Name].

**D. Resident Representative Access Rights**

Unless excluded, the resident representative will have access to the resident during:

1. Any public health emergency.
2. The period in which an order or rule issued under division (C) of section 3701.13 of the Revised Code or section 3701.14, 3709.20, or 3709.21 of the Revised Code remains in effect.
3. At all other times [Facility Name] shall make every reasonable effort to allow the resident's representative to be physically present with the resident in the care setting including but not limited to:
   1. The resident’s end of life.
   2. The resident was recently admitted to the facility and is struggling with the change in environment and lack of physical family support.
   3. The resident is grieving after a friend or family member has recently passed away.
   4. The resident is experiencing weight loss or dehydration and needs cueing and encouragement when eating or drinking.
   5. The resident is experiencing emotional distress from isolation as demonstrated by behavioral changes such as rarely speaking or crying more frequently.
   6. The resident is in transmission-based precautions for a disease or illness.
4. [Facility Name] will use a person-centered approach in working with residents, family members, caregivers, personal representatives, and, as appropriate, the state long-term care ombudsman program to identify residents who are in need of visits by a resident representative for a compassionate care situation.

**E. Limitations to Resident Representative Access**

Resident representative access may be restricted in the following instances:

1. The individual meets the exclusionary criteria listed in Section IV.C of this policy;
2. When the resident is participating in a group therapy session.
3. During the provision of care that would pose an infection control risk to the resident such as when performing an invasive procedure and when a sterile procedure is required.
4. During the investigation of abuse or neglect.
   1. When [Facility Name] is investigating an allegation of abuse or neglect. In this event, [Facility Name] will separate, in a manner consistent with standard operating procedures, the resident representative from the resident. The separation shall be temporary and last no longer than is necessary to identify abuse or neglect in accordance with [Facility Name] Abuse and Neglect policy.
5. When the representative is contagious of disease or illness or shows symptoms of a contagious disease or illness.

**F. Location of Access**

The resident representative will have access to the resident on-site at [Facility Name] and off-site through a means of telecommunication provided to the resident. The off-site telecommunication provided by [Facility Name] will be at no cost to the resident.

The resident representative will be informed if a designated visitor space and limitation of movement throughout the facility is required by CMS or CDC.

**G. Infectious Disease Protocol**

The resident representative will be informed when visitation procedures change due to a highly infection disease and/or an infectious disease outbreak. The resident representative will be informed of the following:

1. The visitation policy regulating visitation during an epidemic, pandemic, or other state of emergency.
2. The current infection control protocols which align with guidance issued by the Centers for Medicare and Medicaid Services and/or the Centers for Disease Control and Prevention including but not limited:
   1. Visitor screening requirements.
   2. Hand hygiene.
   3. Designated visitation space when resident room is restricted.
   4. Advanced scheduled, other than end of life visits.
3. The protocol governing the use of personal protective equipment while on-site in accordance with [Facility Name] [Policy].
   1. Resident Representative is exempt from using personal protective equipment while in the care setting if the resident representative presents to the care setting a practitioner's note documenting that such use conflicts with, or is not required because of, the resident representative’s own physical or mental health condition.
4. The protocol requirement will not be more restrictive for the resident representative than for the [Facility Name] staff.

In the event an infectious disease outbreak is serious enough to require the staff of [Facility Name] to quarantine:

1. The resident representative shall be allowed to quarantine with the resident;
2. The length of quarantine and quarantine requirements will not be more restrictive for resident representatives than for the [Facility Name] staff.

**H. Visitation Policy**

The [Facility Name] visitation policy complies with all regulations and guidance issued by the Centers for Medicare and Medicaid Services and the Centers for Infectious Disease and Control. The resident representative will be informed and comply with the following:

1. Undergo screening as the facility determines reasonably necessary to ascertain any exposure to a contagious disease or illness and disclose any symptoms, as defined by the facility.
2. Produce valid federal or state identification and use all appropriate personal protective equipment. Except in an emergency, each individual shall provide the facility with the individual's current telephone number and address. The facility shall log each visitor, including the individual's telephone number and address, and retain the log in accordance with state and federal record retention requirements.
3. Current check-in and safety protocols for open visitation established by [Facility Name] and in consideration of regulations or guidance from CMS or CDC.

**I. Immunities and Compliants**

[Facility Name] is immune from administrative and civil liability if a resident's representative contracts, as a result of serving as the resident representative, an infectious disease other than a foodborne disease.

The resident representative is informed that [Facility Name] will not treat the resident representative for the infectious disease and they should seek any and all care from their own primary care practitioner and/or emergency services.

[Facility Name] will educate resident representatives, family members, and other interested persons, about the right to:

1. Contact the office of the state long-term care ombudsman program established under section 173.15 of the Revised Code with concerns about access to the facility and its residents.
2. Petition a court of common pleas for injunctive relief restraining a violation or threatened violation of the provisions under the Never Alone Act:
   1. A resident
   2. A resident representative, but only if the representative is the patient’s/resident’s immediate family member, spouse, or guardian. In the case of a minor patient/resident, the minor’s residential parent and legal custodian, or the minor’s guardian, or the attorney-in-fact for the patient/resident under a durable power of attorney for healthcare.
3. If the individual prevails, the court must award the individual court costs associated with petitioning the court for injunctive relief.

**Revision Dates**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_