

HOUSE BILL No. 2748

By Committee on Federal and State Affairs

4-1

1 AN ACT concerning health and healthcare; enacting the no patient left
2 alone act; requiring hospitals and other healthcare settings to allow in-
3 person visitation of patients or residents.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. Sections 1 through 9, and amendments thereto, shall be
7 known and may be cited as the no patient left alone act.

8 Sec. 2. As used in sections 1 through 9, and amendments thereto:

9 (a) "Compassionate care visit" means a visit that is:

10 (1) With a resident's friend or family member, including, but not
11 limited to:

12 (A) A clergy member;

13 (B) a lay person offering religious or spiritual support;

14 (C) a person providing a service requested by the resident, such as a
15 hairdresser or barber; and

16 (D) any other person requested by the resident for the purpose of a
17 compassionate care visit; and

18 (2) necessary to meet the physical or mental needs of the resident,
19 including, but not limited to:

20 (A) In end-of-life situations;

21 (B) adjustment support after moving to a new facility or environment;

22 (C) emotional support;

23 (D) physical support after eating or drinking issues, including weight
24 loss or dehydration; or

25 (E) for social support.

26 (b) "Healthcare facility" means a:

27 (1) Hospital, as defined in K.S.A. 65-425, and amendments thereto;

28 (2) adult care home, as defined in K.S.A. 39-923, and amendments
29 thereto, but excluding any nursing facility for mental health or
30 intermediate care facility for people with intellectual disability;

31 (3) hospice facility; or

32 (4) office of a healthcare professional.

33 (c) "Healthcare professional" means a person who is licensed,
34 certified or otherwise authorized by the laws of this state to administer
35 healthcare in the ordinary course of the practice of such person's
36 profession.

1 (d) "Support person" means an individual, other than a spouse or
2 legal guardian, who is designated by a patient to advocate or provide
3 support for the patient.

4 Sec. 3. (a) Upon the request of a patient, a healthcare facility shall
5 allow:

6 (1) The patient to designate at least three support persons in addition
7 to a spouse or legal guardian; and

8 (2) a spouse or legal guardian and at least one support person to be
9 present with the patient at all times in an emergency department and
10 during the stay of a patient in the healthcare facility.

11 (b) A healthcare professional or healthcare facility shall not require a
12 patient to:

13 (1) Execute an advance directive or a physician order for life-
14 sustaining treatment as a condition of receiving treatment or visitation;

15 (2) agree to a do-not-resuscitate or similar order as a condition of
16 receiving treatment or visitation; or

17 (3) have been vaccinated against COVID-19 in order to receive
18 treatment or visitation.

19 (c) This section shall not affect any obligation of a healthcare
20 professional or healthcare facility to:

21 (1) Provide patients with effective communication supports or other
22 reasonable accommodations in accordance with state and federal law; or

23 (2) make exceptions to the visitor policy of a healthcare facility as a
24 reasonable accommodation under 42 U.S.C. § 12101 et seq., the
25 Americans with disabilities act of 1990.

26 Sec. 4. (a) (1) A child has the right to have a parent, legal guardian or
27 person in loco parentis physically present with the child while the child
28 receives care in a hospital or an office of a healthcare professional.

29 (2) An adult patient has the right to have a spouse or legal guardian
30 and a support person physically present with the adult patient while the
31 adult patient receives care in a hospital or an office of a healthcare
32 professional.

33 (3) A person who has a right to be physically present under paragraph
34 (1) or (2) may leave and return to the hospital or office of a healthcare
35 professional that is caring for the patient.

36 (b) A hospital or an office of a healthcare professional shall not:

37 (1) Require a patient to waive the rights specified in subsection (a);

38 (2) prevent a parent, legal guardian or person in loco parentis of a
39 child receiving care in a hospital or an office of a healthcare professional
40 from having daily physical access to the child at reasonable times; or

41 (3) separate the parent, legal guardian or person in loco parentis of a
42 child receiving care in a hospital or an office of a healthcare professional
43 from the child except in cases of suspected abuse or threats of violence or

1 to prevent disruption to the care of the child.

2 (c) A hospital or an office of a healthcare professional may restrict
3 access of any person to a patient:

4 (1) At the request of the patient or a law enforcement agency;

5 (2) due to a court order;

6 (3) to prevent disruption to the care of a patient;

7 (4) if the person has signs and symptoms of a transmissible infection,
8 except that the hospital or office of a healthcare professional shall allow
9 access through telephone, telecommunication or other means that ensure
10 the protection of the patient; or

11 (5) if the person's presence is determined to be a danger to the patient
12 or to be contrary to the welfare of the patient.

13 Sec. 5. A patient who is receiving hospice care or the guardian,
14 spouse or support person of such patient may designate additional family
15 members and friends who may be physically present with the patient at
16 reasonable times.

17 Sec. 6. (a) (1) An adult care home shall allow compassionate care
18 visits as needed by a resident.

19 (2) Personal, in-person contact with a resident is permitted during a
20 compassionate care visit if the adult care home protocol is followed.

21 (3) An adult care home shall adopt a protocol for in-person contact
22 that adheres to appropriate infection prevention guidelines disseminated by
23 the United States centers for disease control and prevention or the United
24 States centers for medicare and medicaid services.

25 (b) An adult care home shall work with residents, families,
26 caregivers, resident representatives and medical providers, and may
27 include the office of the state long-term care ombudsman established under
28 K.S.A. 75-7304, and amendments thereto, to identify the need for
29 compassionate care visits using a person-centered approach that takes the
30 requests of residents into account.

31 (c) Within the scope of visitation provided by this section, an adult
32 care home shall permit a resident making decisions regarding end-of-life
33 care to be accompanied by a family member, guardian or support person
34 designated by the resident unless the resident declines to be accompanied
35 or requests to have the discussion outside the presence of a family
36 member, guardian or support person.

37 (d) (1) An adult care home may limit:

38 (A) The number of visitors per resident at one time based on the size
39 of the building and physical space; and

40 (B) movement in the long-term care facility, such as requiring a
41 visitor to go directly to the resident's room or a designated visitation area.

42 (2) Visits with a resident who shares a room with another resident
43 shall not be conducted in the resident's room unless the health status of

1 such resident prevents the resident from leaving the room.

2 (e) Healthcare workers who are not employees of the adult care home
3 but provide direct care to a resident in the adult care home, including, but
4 not limited to, hospice workers, emergency medical services personnel,
5 dialysis technicians, laboratory technicians, radiology technicians and
6 social workers, shall be permitted into the adult care home if proper
7 infection control protocols are followed.

8 (f) To the extent permitted by state and federal law, the Kansas
9 department for aging and disability services may investigate and penalize
10 an adult care home's failure to comply with this section.

11 Sec. 7. (a) Prior to September 1, 2022, the Kansas department for
12 aging and disability services shall develop informational materials
13 regarding the no patient left alone act.

14 (b) A healthcare facility shall make the informational materials
15 developed by the Kansas department for aging and disability services
16 accessible:

17 (1) To a patient or resident upon admission or registration; and

18 (2) on the website of the healthcare facility.

19 Sec. 8. (a) An individual may file a complaint against a healthcare
20 professional or healthcare facility for failing to comply with the no patient
21 left alone act with the appropriate state agency or licensing board that has
22 regulatory jurisdiction over the healthcare professional or healthcare
23 facility.

24 (b) The appropriate state agency or licensing board shall investigate
25 such complaint and may discipline an individual or facility over which the
26 agency or board has regulatory jurisdiction as appropriate according to
27 applicable state law.

28 Sec. 9. (a) The no patient left alone act shall not apply to:

29 (1) A minor who is:

30 (A) In the custody of the Kansas department for children and
31 families; or

32 (B) a suspected victim in a pending child abuse or neglect
33 investigation;

34 (2) an individual who is in the custody of the department of
35 corrections or in a county jail; or

36 (3) an individual who is attending a preventive healthcare office visit
37 for which evidence-based guidelines for preventive care recommend a
38 confidential visit component for a child, as mutually agreed to by the
39 patient and the patient's physician.

40 (b) The no patient left alone act shall not:

41 (1) Affect the rights of a legal guardian or holder of a power of
42 attorney; or

43 (2) waive or change the rights of a resident of an adult care home

1 except as expressly provided in the no patient left alone act.

2 (c) The requirements under the no patient left alone act shall be
3 established as a minimum for visitation in a healthcare facility but shall
4 not limit visitation at a healthcare facility to only visitation described in
5 the no patient left alone act.

6 (d) The rights specified in the no patient left alone act shall not be
7 terminated, suspended or waived by:

8 (1) A healthcare facility;

9 (2) the department of health and environment;

10 (3) the Kansas department for children and families; or

11 (4) the governor by executive order upon issuing a proclamation
12 declaring a state of disaster emergency.

13 Sec. 10. This act shall take effect and be in force from and after its
14 publication in the statute book.