

HOUSE BILL No. 2264

By Committee on Health and Human Services

2-1

1 AN ACT concerning health and healthcare; enacting the no patient left
2 alone act; relating to hospitals, adult care homes and hospice facilities;
3 requiring such facilities to allow in-person visitation in certain
4 circumstances; ~~requiring~~ **authorizing** ~~requiring~~ such facilities to adopt
5 visitation policies and procedures; **establishing a patient's bill of**
6 **rights.**

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. (a) This section shall be known and may be cited as the no
10 patient left alone act.

11 (b) As used in this section:

12 (1) "Essential caregiver" means an individual designated by the
13 patient who meets an essential need of the patient by assisting with the
14 tasks of daily living or providing important emotional, social or
15 psychological support.

16 (2) "Immediate family member" means father, mother, stepparent,
17 child, grandchild, stepchild, sibling, spouse or grandparent of the patient.

18 (3) "Patient" means an individual who is receiving care at or is a
19 resident of a patient care facility.

20 (4) "Patient care facility" includes any adult care home as defined in
21 K.S.A. 39-923, and amendments thereto, and any medical care facility as
22 defined in K.S.A. 65-425, and amendments thereto, except that "patient
23 care facility" includes a hospice that is certified to participate in the
24 medicare program under 42 C.F.R. § 418.1 et seq., and that provides
25 services only to hospice patients.

26 (c) A patient care facility shall not:

27 (1) Take action to prevent a patient from receiving in-person
28 visitation from **any person designated by the patient, if the patient has**
29 **the capacity to make such designation, or any person designated by**
30 **the patient's agent for healthcare decisions established by a durable**
31 **power of attorney for healthcare decisions pursuant to K.S.A 58-625 et**
32 **seq., and amendments thereto, if the patient does not have such**
33 **capacity. Such visitor may include, but shall not be limited to:**

34 (A) An immediate family member, **domestic partner or significant**

1 **other;**

2 (B) the agent for healthcare decisions established by a durable power
3 of attorney for healthcare decisions pursuant to K.S.A. 58-625 et seq., and
4 amendments thereto;

5 (C) an essential caregiver; or

6 (D) a minister, priest, rabbi or clergyperson of any religious
7 denomination or sect to which the patient is an adherent; or

8 (2) prohibit a patient who is terminally ill or receiving end-of-life
9 care from receiving in-person visitation from two individuals at a time.

10 (d) **A patient may refuse in-person visitation or revoke previously**
11 **granted in-person visitation from any person at any time.**

12 (e) Prior to September 1, 2023, each patient care facility ~~shall may~~
13 **shall** establish visitation policies and procedures ~~that shall include,~~
14 **including, but not be limited to that:**

15 ~~(1) Infection control protocols and education for visitors;~~

16 ~~(2) a set schedule of dates and times when visitation is allowed;~~

17 ~~(3) allowable visit length; and~~

18 ~~(4) limits on number of visitors;~~

19 ~~(e)(f) Visitation policies and procedures adopted under this section~~
20 ~~shall:~~

21 (1) Allow in-person visitation, unless the patient objects, ~~when the~~
22 ~~patient is:~~

23 ~~(A) Terminally ill or receiving end-of-life care;~~

24 ~~(B) making one or more major medical decisions;~~

25 ~~(C) experiencing emotional distress or grieving the recent loss of a~~
26 ~~friend or family member;~~

27 ~~(D) experiencing functional, cognitive or nutritional decline;~~

28 ~~(E) struggling with the change in environment at the patient care~~
29 ~~facility after having previously lived with such patient's immediate family~~
30 ~~member;~~

31 ~~(F) admitted to a medical care facility for childbirth, including care~~
32 ~~related to a miscarriage or stillbirth; or~~

33 ~~(G) under 18 years of age;~~

34 (2) ~~be are~~ provided to the **medical patient** care facility's licensing
35 agency at the time of initial licensure or renewal or any time upon request;
36 and

37 (3) ~~be are~~ easily accessible from the homepage of the medical care
38 facility's website.

39 ~~(f)(g)(f)~~ Visitation policies and procedures adopted under this section
40 shall not contain more stringent infection control protocols for visitors
41 than for employees of the patient care facility who are providing direct
42 care to patients.

43 ~~(g)(h)(g)~~ A patient care facility may:

1 (1) Adopt visitation policies and procedures that are more stringent
2 for intensive or critical care units;

3 ~~(2) modify visitation based on a patient's condition or need for rest;~~

4 ~~(3)~~ require a visitor to agree in writing to follow the facility's policies
5 and procedures;

6 ~~(4)~~(3) temporarily suspend a visitor's in-person visitation if such
7 visitor violates the facility's policies and procedures; ~~or~~

8 ~~(5)~~(4) revoke a visitor's in-person visitation if such visitor repeatedly
9 violates the facility's policies and procedures or displays any violent or
10 aggressive behavior; **or**

11 ~~(6)~~(5) notwithstanding subsection ~~(g)~~ (f), require a visitor to
12 adhere to infection control procedures, including wearing personal
13 protective equipment.

14 ~~(h)~~(i)(h) The department of health and environment shall publish on
15 its website an explanation of this section's visitation requirements and a
16 link to report complaints alleging violations of this section by a patient
17 care facility.

18 ~~(j)~~(i) A patient care facility shall be immune from civil liability for
19 damages for acts taken in compliance with this section unless such act
20 constitutes gross negligence or willful, wanton or reckless conduct.

21 ~~(k) Nothing in this section shall be construed to:~~

22 ~~(1) Supersede any federal law, rules, regulations or guidance~~
23 ~~regarding patient care facilities; or~~

24 ~~(2) prohibit a patient care facility from taking actions necessary~~
25 ~~to ensure that such patient care facility remains eligible for federal~~
26 ~~financial participation, federal funds or participation in federal~~
27 ~~programs and for reimbursement for services provided in such patient~~
28 ~~care facility.~~

29 *Sec. 2. (a) Each patient being cared for in a patient care facility*
30 *has rights that the patient care facility shall protect and promote. Such*
31 *rights include:*

32 *(1) The right to choose a personal attending physician, to be fully*
33 *informed in advance about care and treatment, to be fully informed in*
34 *advance of any changes in care or treatment that may affect the patient's*
35 *well-being and, except with respect to a patient adjudged incompetent, to*
36 *participate in planning care and treatment or changes in care and*
37 *treatment;*

38 *(2) the right to be free from physical or mental abuse, corporal*
39 *punishment, involuntary seclusion and any physical or chemical*
40 *restraints imposed for purposes of discipline or convenience and not*
41 *required to treat the patient's medical symptoms. Restraints may only be*
42 *imposed to ensure the physical safety of the patient or other patients and*
43 *upon the written order of a physician that specifies the duration and*

1 *circumstances under which the restraints are to be used, except in*
2 *emergency circumstances until such order could reasonably be*
3 *obtained;*

4 *(3) the right to privacy regarding accommodations, medical*
5 *treatment, written and telephonic communications, visits and meetings*
6 *of family and other visitors;*

7 *(4) the right to confidentiality of personal and clinical records and*
8 *access to current clinical records of the patient upon request by the*
9 *patient or the patient's legal representative, within 24 hours, excluding*
10 *hours occurring during a weekend or holiday, after making such a*
11 *request;*

12 *(5) the right to receive services with reasonable accommodation of*
13 *individual needs and preferences, except where the health or safety of*
14 *the individual or other patients would be endangered;*

15 *(6) the right to voice grievances with respect to treatment or care*
16 *that is or fails to be furnished, without discrimination or reprisal for*
17 *voicing the grievances, and the right to prompt efforts by the patient care*
18 *facility to resolve grievances of the patient;*

19 *(7) the right of the patient to participate in social, religious and*
20 *community activities that do not interfere with the rights of other*
21 *patients in the patient care facility; and*

22 *(8) the right to examine, upon reasonable request, the results of the*
23 *most recent survey of the patient facility conducted by the patient care*
24 *facility's licensing body with respect to the patient care facility and any*
25 *plan of correction in effect with respect to the patient care facility.*

26 *(b) As used in this section:*

27 *(1) "Patient" means an individual who is receiving care at or is a*
28 *resident of a patient care facility.*

29 *(2) "Patient care facility" includes any adult care home as defined*
30 *in K.S.A. 39-923, and amendments thereto, and any medical care facility*
31 *as defined in K.S.A. 65-425, and amendments thereto. "Patient care*
32 *facility" also includes a hospice that is certified to participate in the*
33 *medicare program under 42 C.F.R. § 418.1 et seq., and that provides*
34 *services only to hospice patients.*

35 Sec. 2. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.