

1 State of Arkansas *As Engrossed: H1/19/21 H2/1/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1061

4

5 By: Representatives J. Mayberry, Lundstrum, Crawford, Vaught, Bentley, Evans, Furman, Maddox, M.

6 McElroy, Miller, Richmond, Watson, *Brown, McKenzie*

7 By: Senators B. Davis, K. Hammer, J. English, Irvin, A. Clark, Flippo, *T. Garner*

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For An Act To Be Entitled

10 AN ACT TO CREATE THE NO PATIENT LEFT ALONE ACT;
11 CONCERNING VISITATION RIGHTS OF PATIENTS; TO DECLARE
12 AN EMERGENCY; AND FOR OTHER PURPOSES.

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14

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Subtitle

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TO CREATE THE NO PATIENT LEFT ALONE ACT;

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CONCERNING VISITATION RIGHTS OF PATIENTS;

18

AND TO DECLARE AN EMERGENCY.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code Title 20, Chapter 9, Subchapter 3, is amended
24 to add an additional section to read as follows:

25 20-9-312. No Patient Left Alone Act – Definitions.

26 (a) This section shall be known and may be cited as the "No Patient
27 Left Alone Act".

28 (b) The General Assembly finds that:

29 (1) The coronavirus 2019 (COVID-19) pandemic has caused great
30 uncertainty and anxiety across the state and has significantly affected the
31 medical community, including hospitals;

32 (2) Hospitals, offices of healthcare professionals, long-term
33 care facilities, and hospice facilities have made many efforts to maintain a
34 safe environment for patients and employees and have worked to minimize, to
35 the extent possible, the risk of spread of coronavirus 2019 (COVID-19);

36 (3) There have been unintended consequences of these



1 preventative measures for patients who have not been diagnosed with
2 coronavirus 2019 (COVID-19);

3 (4) Across the state, patients who have not been diagnosed with
4 coronavirus 2019 (COVID-19) have been prohibited from having any visitors;

5 (5) As a result, many patients who were not diagnosed with
6 coronavirus 2019 (COVID-19) have been required to be alone during their
7 treatment for serious conditions, traumas, illnesses, and routine and
8 emergency surgeries;

9 (6) Some of these patients have been required to be alone for
10 the entire course of their treatment and in some cases have died alone;

11 (7) Many families have been unable to be physically present with
12 their loved ones who are being treated in a hospital, an office of a
13 healthcare professional, a long-term care facility, or a hospice facility and
14 have been limited to electronic video communications, if any, with their
15 loved ones; and

16 (8) It is in the interest of the state and its citizens that a
17 patient be allowed at least one (1) support person who is permitted to be
18 physically present with the patient on a daily basis at reasonable times
19 throughout his or her hospitalization, visit to the office of a healthcare
20 professional, or institutionalization.

21 (c) As used in this section:

22 (1) "Healthcare agent" means an individual other than a spouse
23 or legal guardian who is designated by the patient to advocate or provide
24 support for the patient;

25 (2) "Healthcare professional" means a person who is licensed,
26 certified, or otherwise authorized by the laws of this state to administer
27 health care in the ordinary course of the practice of his or her profession;
28 and

29 (3) "Long-term care facility" means:

30 (A) A nursing home;

31 (B) A residential care facility;

32 (C) A post-acute head injury retraining and residential
33 facility;

34 (D) An assisted living facility;

35 (E) An intermediate care facility for individuals with
36 developmental disabilities; z

1 (F) A facility that provides long-term medical or personal
2 care.

3 (d)(1) A child has the right to have a parent, legal guardian, or
4 person standing in loco parentis to be physically present with a child while
5 the child receives care in a hospital, an office of a healthcare
6 professional, a long-term care facility, or a hospice facility.

7 (2) An adult patient has the right to have a spouse, healthcare
8 agent, or legal guardian physically present with the adult patient while the
9 adult receives care in a hospital, an office of a healthcare professional, a
10 long-term care facility, or a hospice facility.

11 (3) A patient who is receiving hospice care or the guardian,
12 spouse, or healthcare agent of a patient who is receiving hospice care may
13 designate additional family members and friends who may be physically present
14 with the patient at reasonable times.

15 (4) A person with a right to be physically present under
16 subdivisions (d)(1)-(3) of this section may leave and return to the hospital,
17 office of a healthcare professional, long-term care facility, or hospice
18 facility that is caring for the patient.

19 (5) A clergy member or spiritual advisor may be physically
20 present with a patient to pray with or offer spiritual support for the
21 patient while the patient receives care in a hospital, an office of a
22 healthcare professional, a long-term care facility, or a hospice facility.

23 (6) Except as required by the least restrictive interpretation
24 of federal law and regulations that do not prevent a caregiver from having
25 access to the patient, the rights specified in subdivisions (d)(1)-(3) of
26 this section shall not be terminated, suspended, or waived by:

27 (A) A hospital;

28 (B) An office of a healthcare professional;

29 (C) A long-term care facility;

30 (D) A hospice facility;

31 (E) The Department of Health or the State Board of Health;

32 (F) The Department of Human Services; or

33 (G) The Governor upon declaring a disaster emergency under
34 the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., or ordering
35 the board to take action under § 20-7-110, or both.

36 (e) A hospital, an office of a healthcare professional, a long-term

1 care facility, or a hospice facility shall not:

2 (1) Require a patient to waive the rights specified in
3 subdivisions (d)(1)-(3) of this section;

4 (2) Prevent a parent, legal guardian, or person standing in loco
5 parentis of a child receiving care in a hospital, an office of a healthcare
6 professional, a long-term care facility, or a hospice facility from having
7 daily physical access to the child at reasonable times; or

8 (3) Separate the parent, legal guardian, or person standing in
9 loco parentis of a child receiving care in a hospital, an office of a
10 healthcare professional, a long-term care facility, or a hospice facility
11 from the child except in cases of suspected abuse or threats of violence or
12 to prevent disruption to the care of the child.

13 (f)(1) The Department of Health shall develop informational materials
14 regarding this section.

15 (2) A hospital, an office of a healthcare professional, a long-
16 term care facility, or a hospice facility shall post the informational
17 materials regarding this section in a conspicuous place on the premises of
18 the hospital, office of a healthcare professional, long-term care facility,
19 or hospice facility as well as on the website of the hospital, office of a
20 healthcare professional, long-term care facility, or hospice facility.

21 (g) A hospital, an office of a healthcare professional, a long-term
22 care facility, or a hospice facility may restrict access of any person to a
23 patient:

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

25 (2) Due to a court order;

26 (3) To prevent disruption to the care of the patient;

27 (4)(A) If the person has signs and symptoms of a transmissible
28 infection.

29 (B) However, the hospital, office of a healthcare
30 professional, long-term care facility, or hospice facility shall allow access
31 through telephone, telecommunication means, or other means that ensure the
32 protection of the patient.

33 (C) The person shall follow respiratory hygiene and cough
34 etiquette as well as other infection prevention and control practices such as
35 appropriate hand hygiene; or

36 (5) If the person is determined to be a danger to the patient or

1 to be contrary to the welfare of the patient.

2 (h) This section does not apply to:

3 (1) The Arkansas State Hospital;

4 (2) A minor who is:

5 (A) In the custody of the Division of Children and Family
6 Services; or

7 (B) A suspected victim in a pending maltreatment
8 investigation; or

9 (3) An individual who is in the custody of the Department of
10 Corrections.

11 (i)(1) An individual may file a complaint against a hospital, office
12 of healthcare professional, long-term care facility, or hospice facility for
13 failing to comply with this section with the appropriate licensing board,
14 including the Department of Health and the Department of Human Services.

15 (2) The appropriate licensing board shall investigate the
16 complaint and mediate the complaint between the individual and the hospital,
17 office of healthcare professional, long-term care facility, or hospice
18 facility.

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20 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-
22 19) pandemic has caused great uncertainty and anxiety across the state and
23 has significantly affected the medical community, including hospitals; that
24 across the state, patients who have not been diagnosed with coronavirus 2019
25 (COVID-19) have been prohibited from having any visitors which has resulted
26 in many patients who were not diagnosed with coronavirus 2019 (COVID-19)
27 being required to be alone during their treatment for serious conditions,
28 traumas, illnesses, and routine and emergency surgeries; that some of these
29 patients have been required to be alone for the entire course of their
30 treatment and in some cases have died alone; and that this act is immediately
31 necessary to ensure that a patient is allowed at least one (1) support person
32 who is permitted to be physically present with the patient on a daily basis
33 at reasonable times throughout the patient's hospitalization or
34 institutionalization and who is permitted to accompany the patient when the
35 patient visits the office of a healthcare professional. Therefore, an
36 emergency is declared to exist, and this act being immediately necessary for

1 the preservation of the public peace, health, and safety shall become
2 effective on:

3 (1) The date of its approval by the Governor;

4 (2) If the bill is neither approved nor vetoed by the Governor,
5 the expiration of the period of time during which the Governor may veto the
6 bill; or

7 (3) If the bill is vetoed by the Governor and the veto is
8 overridden, the date the last house overrides the veto.

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/s/J. Mayberry

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