

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1509

5 By: Representative J. Mayberry
6 By: Senators A. Clark, B. Davis
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE NO PATIENT LEFT ALONE ACT; TO
10 REQUIRE OUTPATIENT FACILITIES TO COMPLY WITH
11 VISITATION AND SUPPORT PERSON REQUIREMENTS; TO ADD
12 PENALTIES FOR A VIOLATION OF THE NO PATIENT LEFT
13 ALONE ACT; TO AUTHORIZE SUPPORT PERSONS TO STAY
14 OVERNIGHT; AND FOR OTHER PURPOSES.
15

Subtitle

16
17
18 TO AMEND THE NO PATIENT LEFT ALONE ACT;
19 TO REQUIRE OUTPATIENT FACILITIES TO
20 COMPLY WITH VISITATION AND SUPPORT PERSON
21 REQUIREMENTS; AND TO ADD PENALTIES FOR A
22 VIOLATION OF THE NO PATIENT LEFT ALONE
23 ACT.
24

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 20-6-403(2), concerning the definition of
29 "healthcare facility" within the No Patient Left Alone Act, is amended to
30 read as follows:

31 (2) "Healthcare facility" means a hospital, an office of a
32 healthcare professional, a long-term care facility, ~~or~~ a hospice facility, or
33 an outpatient facility;
34

35 SECTION 2. Arkansas Code § 20-6-403, concerning the definitions within
36 the No Patient Left Alone Act, is amended to add an additional subdivision to



1 read as follows:

2 (8) "Outpatient facility" means a healthcare facility that
 3 provides either diagnosis or diagnosis and treatment of a patient who is not
 4 admitted for overnight care, including without limitation an ambulatory
 5 surgery center, an outpatient surgery center, an imaging service, and a
 6 laboratory service.

7
 8 SECTION 3. Arkansas Code § 20-6-404(a), concerning the visitation and
 9 support for a patient with a disability under the No Patient Left Alone Act,
 10 is amended to read as follows:

11 (a) Upon the request of a patient with a disability, a hospital, an
 12 office of a healthcare professional, an outpatient facility, or a hospice
 13 facility licensed in this state shall allow a patient with a disability to
 14 designate at least three (3) support persons and shall allow at least one (1)
 15 support person to be present with the patient with a disability at all times
 16 in the emergency department and during the stay of a patient with a
 17 disability in the hospital, office of a healthcare professional, outpatient
 18 facility, or hospice facility if necessary to facilitate the care of the
 19 patient with a disability, including without limitation when the patient with
 20 a disability:

21 (1) Has a cognitive or mental health disability that affects the
 22 ability of a patient with a disability to make medical decisions or
 23 understand medical advice;

24 (2) Needs assistance with activities of daily living and the
 25 staff are unable to provide or are less effective at providing the
 26 assistance;

27 (3) Is deaf, hard of hearing, or has other communication
 28 barriers and requires the assistance of a support person to ensure effective
 29 communication with staff;

30 (4) Has behavioral health needs that the support person can
 31 address more effectively than the staff; or

32 (5) Is making a decision to consent to treatment or refuse
 33 treatment.

34

35 SECTION 4. Arkansas Code § 20-6-405 is amended to read as follows:
 36 20-6-405. Hospital, ~~or~~ office of healthcare professional, or

1 outpatient facility visitation.

2 (a)(1) ~~A child has the right~~ A hospital, an office of a healthcare
 3 professional, or an outpatient facility shall allow a child to have a parent,
 4 legal guardian, or person standing in loco parentis physically present with
 5 the child while the child receives care in a hospital, ~~or~~ an office of a
 6 healthcare professional, or an outpatient facility.

7 (2) ~~An adult patient has the right~~ A hospital, an office of a
 8 healthcare professional, or an outpatient facility shall allow an adult
 9 patient to have a spouse, support person, or legal guardian physically
 10 present with the adult patient while the adult receives care in a hospital,
 11 ~~or~~ an office of a healthcare professional, or an outpatient facility.

12 (3) A person with a right to be physically present under
 13 subdivisions (a)(1) and (2) of this section may leave and return to the
 14 hospital, ~~or~~ office of a healthcare professional, or outpatient facility that
 15 is caring for the patient.

16 (b) A hospital, ~~or~~ an office of a healthcare professional, or an
 17 outpatient facility shall not:

18 (1) Require a patient to waive the rights specified in
 19 subdivisions (a)(1) and (2) of this section;

20 (2) Prevent a parent, legal guardian, or person standing in loco
 21 parentis of a child receiving care in a hospital, ~~or~~ an office of a
 22 healthcare professional, or an outpatient facility from having daily physical
 23 access to the child at reasonable times; ~~or~~

24 (3) Separate the parent, legal guardian, or person standing in
 25 loco parentis of a child receiving care in a hospital, ~~or~~ an office of a
 26 healthcare professional, or an outpatient facility from the child except in
 27 cases of suspected abuse or threats of violence or to prevent disruption to
 28 the care of the child; or

29 (4) Prohibit a person with a right to be physically present
 30 under subdivisions (a)(1) and (2) of this section from staying overnight with
 31 the patient.

32 (c) A hospital, ~~or~~ an office of a healthcare professional, or an
 33 outpatient facility may restrict access of any person to a patient:

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

35 (2) Due to a court order;

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

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

3 (B) However, the hospital, ~~or~~ office of a healthcare
4 professional, or outpatient facility shall allow access through telephone,
5 telecommunication means, or other means that ensure the protection of the
6 patient.

7 (C) The person shall follow respiratory hygiene and cough
8 etiquette as well as other infection prevention and control practices such as
9 appropriate hand hygiene;

10 (5) If the person is determined to be a danger to the patient or
11 to be contrary to the welfare of the patient; or

12 (6) According to visitation policies established under § 20-6-
13 411.

14
15 SECTION 5. Arkansas Code § 20-6-408 is amended to read as follows:

16 20-6-408. Clergy member or lay person offering religious or spiritual
17 support visitation.

18 (a) A clergy member or lay person offering religious or spiritual
19 support may be physically present with a patient to pray with or offer
20 spiritual support for the patient while the patient receives care in a
21 healthcare facility.

22 (b) If a healthcare facility has a visitation policy that allows in-
23 person visitation of any kind, the healthcare facility shall allow a clergy
24 member to visit a patient who requests a visit in person or consents to be
25 visited in person for religious purposes by a clergy member, including during
26 a state of emergency.

27 (c) Notwithstanding any other provision of this chapter, when a
28 patient's death is imminent, the healthcare facility shall allow a clergy
29 member to visit a patient in person for religious purposes if:

30 (1) The patient requests or consents to be visited by the clergy
31 member; or

32 (2) The patient's healthcare agent or support person requests
33 that the patient be visited by the clergy member.

34 (d)(1) The healthcare facility may require the clergy member to comply
35 with reasonable health and safety precautions, including reasonable health
36 screenings and wearing personal protective equipment, imposed by the

1 healthcare facility in connection with in-person visitation for the
2 prevention of spreading communicable diseases unless the precaution
3 substantially burdens the ability of the clergy member to freely exercise his
4 or her religion.

5 (2) If the requirements substantially burdens the ability of the
6 clergy member, the healthcare facility may require compliance with the
7 precautions only if compliance in that instance furthers a compelling
8 government interest and imposes the least restrictive burden on the clergy
9 member's exercise of religion.

10 (3) Notwithstanding any other provision in this chapter, a
11 healthcare facility may restrict visits of a clergy member who fails a
12 reasonable health screening measure or tests positive for a communicable
13 disease.

14 (e) State laws enacted after the effective date of this section are
15 subject to this section unless the law explicitly excludes application by
16 reference to this section.

17
18 SECTION 6. Arkansas Code § 20-6-410 is amended to read as follows:
19 20-6-410. Complaints – Enforcement and penalties.

20 (a) An individual may file a complaint against a healthcare
21 professional or healthcare facility for failing to comply with this
22 subchapter with the appropriate state agency or licensing board, including
23 the Department of Health and the Department of Human Services.

24 (b) The appropriate state agency or licensing board shall investigate
25 the complaint.

26 (c) If a healthcare facility violates this subchapter, the Department
27 of Health may issue a warning regarding the violation and require the
28 healthcare facility to grant visitation or comply with the relevant law
29 within twenty-four (24) hours of the warning.

30 (d)(1) If the healthcare facility under subsection (c) of this section
31 does not grant visitation or comply with the relevant law within twenty-four
32 (24) hours, the Department of Health shall conduct a hearing as required
33 under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and may
34 impose a civil penalty of at least five hundred dollars (\$500) for each
35 administratively adjudicated violation per day on the healthcare facility.

36 (2) The civil penalty under subdivision (d)(1) of this section

1 shall be:

2 (A) In addition to any fine or civil penalty imposed by a
3 federal agency on the healthcare facility; and

4 (B) Deposited into the Health Facility Services Revolving
5 Fund.

6 (3) The civil penalty under subdivision (d)(1) of this section
7 shall not apply if a federal law, rule, or guidance limits visitation at a
8 healthcare facility.

9

10 SECTION 7. Arkansas Code § 20-6-411 is amended to read as follows:

11 20-6-411. Visitation limits or restrictions.

12 (a) A healthcare facility may establish visitation policies that limit
13 or restrict visitation when:

14 (1) The presence of visitors would be medically or
15 therapeutically contraindicated;

16 (2) The presence of visitors would interfere with the care of or
17 rights of any patient;

18 (3) Visitors are engaging in disruptive, threatening, or violent
19 behavior toward any staff member, patient, or other visitor; or

20 (4) Visitors are noncompliant with healthcare facility policy.

21 (b) If a healthcare facility denies visitation, the healthcare
22 facility shall provide written copy of the visitation policy to the
23 individual being denied visitation.

24

25

26

27

28

29

30

31

32

33

34

35

36