

SB113 ENGROSSED



1 1VWPZ3-2

2 By Senators Gudger, Roberts, Waggoner, Barfoot, Elliott,
3 Williams, Chambliss, Kelley, Hovey, Sessions, Stutts, Bell,
4 Albritton, Shelnut, Melson, Livingston, Scofield, Reed,
5 Weaver, Givhan, Allen, Butler, Jones, Orr, Chesteen, Price,
6 Carnley

7 RFD: Healthcare

8 First Read: 21-Mar-23

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A BILL
TO BE ENTITLED
AN ACT

Relating to health care facilities; to add Section 22-21-437 to the Code of Alabama 1975; to require health care facilities to adopt certain visitation policies; to provide that patients have a right to certain visitation; to allow patients to designate an essential caregiver and to guarantee that caregiver certain visitation rights; to prohibit a health care facility from adopting a visitation policy that is more stringent than certain employee policies; to prohibit a health care facility from requiring visitors to show proof of vaccination or from prohibiting consensual physical contact between visitors and patients; to provide for the circumstances in which patients may not be denied visitors who are not essential caregivers; to require health care facilities to provide visitation policies to the Department of Public Health; to require the Department of Public Health to develop a mechanism for complaints; to provide certain immunity from liability in certain circumstances; to exempt certain psychiatric care facilities from the provisions of this bill; and to repeal Sections 22-21-430 through 22-21-436, Code of Alabama 1975, relating to hospital visitation during a



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29 public health emergency.

30 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

31 Section 1. The Legislature finds that Representative
32 Debbie Wood, whose mother, Peggy Hamby, succumbed to COVID-19,
33 is forever remembered by the Alabama Legislature in the spirit
34 of this bill. This bill represents Mrs. Hamby and the
35 countless Alabamians who tragically lost relatives and loved
36 ones during the COVID-19 pandemic.

37 Section 2. Section 22-21-437 is added to the Code of
38 Alabama 1975, to read as follows:

39 §22-21-437

40 (a) This section shall be known and may be cited as the
41 Harold Sachs and Anne Roberts Act.

42 (b) For the purposes of this section, the term "health
43 care facility" means a general acute hospital, long-term care
44 facility, skilled nursing facility, intermediate care
45 facility, assisted living facility, or specialty care assisted
46 living facility.

47 (c) A resident, client, or patient of a health care
48 facility shall have the right to be visited by any individual
49 of his or her choosing during the facility's visiting hours,
50 subject to the requirements of the health care facility's
51 policies and procedures, which shall be consistent with this
52 section and established in accordance with subsection (d).

53 (d) No later than 30 days after the effective date of
54 this act, each health care facility shall establish visitation
55 policies and procedures. The policies and procedures must, at
56 a minimum, include each of the following:



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57 (1) Infection control and education policies for
58 visitors.

59 (2) Screening, personal protective equipment, and other
60 infection control protocols for visitors.

61 (3) The permissible length of visits and numbers of
62 visitors in accordance with this section.

63 (4) Designation of an individual responsible for
64 ensuring that staff adhere to the policies and procedures.

65 (e) (1) Safety-related policies and procedures may not
66 be more stringent than those established for the facility's
67 staff and may not require visitors to submit proof of any
68 vaccination or immunization. The policies and procedures must
69 allow consensual physical contact between a resident, client,
70 or patient and the visitor.

71 (2) The policies and procedures shall allow any visitor
72 who is 18 years of age or younger to be accompanied by an
73 adult during visitation.

74 (f) (1) A resident, client, or patient may designate a
75 visitor who is a family member, friend, guardian, or other
76 individual as an essential caregiver. The resident, client, or
77 patient may designate a different essential caregiver each
78 day, if he or she chooses. Additionally, he or she may
79 establish a rotation designating who his or her essential
80 caregiver will be on a given day. The health care facility
81 shall allow in-person visitation by the essential caregiver
82 for at least two hours daily in addition to any other
83 visitation authorized by the facility. This subsection does
84 not require an essential caregiver to provide necessary care



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85 to a resident, client, or patient of a facility, and
86 facilities may not require an essential caregiver to provide
87 such care.

88 (2)a. If a patient, client, or resident is
89 incapacitated and unable to designate an essential caregiver,
90 one of the following shall appoint an essential caregiver on
91 behalf of the patient, client, or resident, in the following
92 order of priority:

93 1. The individual's guardian, as defined by Section
94 26-2A-20.

95 2. The individual's durable power of attorney, as
96 provided in Section 26-1-2.

97 b. If the individual does not have a guardian or a
98 durable power of attorney, a family member shall appoint an
99 essential caregiver on behalf of the patient, client, or
100 resident, in the following order of priority:

101 1. The individual's spouse.

102 2. The individual's child or children, provided the
103 child or children has reached 19 years of age or older.

104 3. The individual's parent or parents.

105 4. The individual's sibling or siblings.

106 c. An individual appointing an essential caregiver on
107 behalf of an incapacitated patient, client, or resident may
108 appoint a caregiver in the same manner as provided in
109 subdivision (1).

110 (g) The visitation policies and procedures required by
111 this section must allow in-person visitation in all of the
112 following circumstances, unless the resident, client, or



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113 patient objects:

114 (1) End-of-life situations.

115 (2) A resident, client, or patient who was living with
116 family before being admitted to the health care facility's
117 care is struggling with the change in environment and lack of
118 in-person family support.

119 (3) The resident, client, or patient is making one or
120 more major medical decisions.

121 (4) A resident, client, or patient is experiencing
122 emotional distress or grieving the loss of a friend or family
123 member who recently died.

124 (5) A resident, client, or patient needs cueing or
125 encouragement to eat or drink which was previously provided by
126 a family member or caregiver.

127 (6) A resident, client, or patient who used to talk and
128 interact with others is seldom speaking.

129 (7) For hospitals, childbirth, including labor and
130 delivery.

131 (8) Pediatric patients.

132 (h) The policies and procedures may require a visitor
133 to agree in writing to follow the health care facility's
134 policies and procedures. A health care facility may suspend
135 in-person visitation of a specific visitor if the visitor
136 violates the facility's policies and procedures.

137 (i) (1) Each health care facility shall provide its
138 visitation policies and procedures to the Alabama Department
139 of Health when applying for initial licensure, licensure
140 renewal, or change of ownership. The health care facility must



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141 make the visitation policies and procedures available to the
142 agency for review at any time, upon request.

143 (2) Within 24 hours after establishing the policies and
144 procedures required under this section, health care facilities
145 must make the policies and procedures easily accessible from
146 the homepage of their websites.

147 (3) The Alabama Department of Public Health shall
148 dedicate a stand-alone page on its website to explain the
149 visitation requirements of this section and provide a link to
150 the agency's webpage to report complaints.

151 (j) An individual may not bring a civil action against
152 a health care facility, its employees, or its contracted staff
153 for injuries sustained because of the acts or omissions of a
154 health care facility, its employees, or its contracted staff
155 taken in compliance with this section, unless the complaining
156 party can show by substantial evidence that the health care
157 facility, its employees, or its contracted staff failed to
158 follow this section and applicable guidelines. This subsection
159 does not apply to wanton, willful, reckless, or intentional
160 misconduct.

161 (k) This section does not apply to either of the
162 following:

163 (1) Any health care facility designated for psychiatric
164 care, including a psychiatric hospital.

165 (2) Any unit, ward, floor, wing, or other area of any
166 health care facility which is designated for psychiatric care.

167 Section 3. Sections 22-21-430 through 22-21-436, Code
168 of Alabama 1975, relating to hospital visitation during a



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169 public health emergency, are repealed.

170 Section 4. This act shall become effective immediately
171 following its passage and approval by the Governor, or its
172 otherwise becoming law.

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173
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175 Senate

176 Read for the first time and referred21-Mar-23
177 to the Senate committee on
178 Healthcare
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180 Read for the second time and placed22-Mar-23
181 on the calendar:
182 0 amendments
183
184 Read for the third time and passed23-Mar-23
185 as amended
186 Yeas 33
187 Nays 0
188 Abstains 0
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Patrick Harris,
Secretary.

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