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

RFD: Healthcare

First Read: 21-Mar-23
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
public health emergency.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

§22-21-437

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

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

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

(d) No later than 30 days after the effective date of this act, each health care facility shall establish visitation policies and procedures. The policies and procedures must, at a minimum, include each of the following:
(1) Infection control and education policies for visitors.

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

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

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

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

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

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

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

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

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

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

1. The individual's spouse.

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

3. The individual's parent or parents.

4. The individual's sibling or siblings.

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

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

(1) End-of-life situations.
(2) A resident, client, or patient who was living with family before being admitted to the health care facility's care is struggling with the change in environment and lack of in-person family support.
(3) The resident, client, or patient is making one or more major medical decisions.
(4) A resident, client, or patient is experiencing emotional distress or grieving the loss of a friend or family member who recently died.
(5) A resident, client, or patient needs cueing or encouragement to eat or drink which was previously provided by a family member or caregiver.
(6) A resident, client, or patient who used to talk and interact with others is seldom speaking.
(7) For hospitals, childbirth, including labor and delivery.
(8) Pediatric patients.
(h) The policies and procedures may require a visitor to agree in writing to follow the health care facility's policies and procedures. A health care facility may suspend in-person visitation of a specific visitor if the visitor violates the facility's policies and procedures.
(i)(1) Each health care facility shall provide its visitation policies and procedures to the Alabama Department of Health when applying for initial licensure, licensure renewal, or change of ownership. The health care facility must
make the visitation policies and procedures available to the agency for review at any time, upon request.

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

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

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

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

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

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

Section 3. Sections 22-21-430 through 22-21-436, Code of Alabama 1975, relating to hospital visitation during a
public health emergency, are repealed.

Section 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
SB113 Engrossed

173 174 175 Senate

176 Read for the first time and referred .................. 21-Mar-23
177 to the Senate committee on
178 Healthcare
179
180 Read for the second time and placed .................. 22-Mar-23
181 on the calendar:
182 0 amendments
183
184 Read for the third time and passed .................. 23-Mar-23
185 as amended
186  Yeas 33
187  Nays 0
188  Abstains 0
189
190
191  Patrick Harris,
192  Secretary.