

SB113 ENROLLED



1 1VWPZ3-3
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
9



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1 Enrolled, An Act,

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4 Relating to health care facilities; to add Section

5 22-21-437 to the Code of Alabama 1975; to require health care

6 facilities to adopt certain visitation policies; to provide

7 that patients have a right to certain visitation; to allow

8 patients to designate an essential caregiver and to guarantee

9 that caregiver certain visitation rights; to prohibit a health

10 care facility from adopting a visitation policy that is more

11 stringent than certain employee policies; to prohibit a health

12 care facility from requiring visitors to show proof of

13 vaccination or from prohibiting consensual physical contact

14 between visitors and patients; to provide for the

15 circumstances in which patients may not be denied visitors who

16 are not essential caregivers; to require health care

17 facilities to provide visitation policies to the Department of

18 Public Health; to require the Department of Public Health to

19 develop a mechanism for complaints; to provide certain

20 immunity from liability in certain circumstances; to exempt

21 certain psychiatric care facilities from the provisions of

22 this bill; and to repeal Sections 22-21-430 through 22-21-436,

23 Code of Alabama 1975, relating to hospital visitation during a

24 public health emergency.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. The Legislature finds that Representative

27 Debbie Wood, whose mother, Peggy Hamby, succumbed to COVID-19,

28 is forever remembered by the Alabama Legislature in the spirit



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29 of this bill. This bill represents Mrs. Hamby and the
30 countless Alabamians who tragically lost relatives and loved
31 ones during the COVID-19 pandemic.

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

34 §22-21-437

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

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

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

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

52 (1) Infection control and education policies for
53 visitors.

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

56 (3) The permissible length of visits and numbers of



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57 visitors in accordance with this section.

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

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

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

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

83 (2)a. If a patient, client, or resident is
84 incapacitated and unable to designate an essential caregiver,



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85 one of the following shall appoint an essential caregiver on
86 behalf of the patient, client, or resident, in the following
87 order of priority:

88 1. The individual's guardian, as defined by Section
89 26-2A-20.

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

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

96 1. The individual's spouse.

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

99 3. The individual's parent or parents.

100 4. The individual's sibling or siblings.

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

105 (3) Health care facilities shall allow a resident,
106 client, or patient to have in-person visitation with a member
107 of the clergy in the same manner that visitation is provided
108 to an essential caregiver.

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



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113 (1) End-of-life situations.

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

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

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

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

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

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

130 (8) Pediatric patients.

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

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



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141 agency for review at any time, upon request.

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

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

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

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

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

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

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



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



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 23-Mar-23

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 06-Apr-23

Senate concurred in House amendment 11-Apr-23

By: Senator Senator Gudger