SB113 INTRODUCED

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
SYNOPSIS:

Under existing law, a health care facility must follow certain requirements related to visitation for patients, clients, or residents.

This bill would repeal existing law related to health care facility visitation and would require health care facilities to adopt visitation policies and procedures that meet certain standards.

This bill would provide that residents, clients, or patients of a health care facility have the right to visit with any individual of their choosing during the facility's visiting hours.

This bill would allow a resident, client, or patient to designate an essential caregiver, and would require health care facilities to allow essential caregivers at least two hours of daily visitation.

This bill would require that any safety-related policies or procedures may not be more stringent than those established for the health care facility's staff.

This bill would prohibit a health care facility from requiring visitors to submit proof of vaccination or from prohibiting consensual physical contact between a visitor and a resident, client, or patient.

This bill would allow a health care facility to suspend in-person visitation of a specific visitor if a
visitor violates the facility's policies and procedures.

This bill would require health care facilities to allow visitors for residents, clients, or patients in certain situations, including end-of-life scenarios; childbirth; pediatric care; and for those who are having adjustment issues, making a major medical decision, experiencing emotional distress or grief, or struggling to eat, drink, or speak in certain situations.

This bill would require each health care facility to provide its visitation policies and procedures to the Department of Public Health when applying for licensure, renewal, or change of ownership, and would require the Department of Public Health to dedicate a page on its website to explain visitation requirements and provide a mechanism for complaints.

This bill would also exempt health care facilities designated to psychiatric care and certain areas of any health care facility, provided the area is designated to psychiatric care, from visitation requirements.
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 Ann 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 provider'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 provider 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 provider, and providers 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 provider'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 provider'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, providers 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.