

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 3313

By: Roe

7 COMMITTEE SUBSTITUTE

8 An Act relating to hospital visitation; amending 63  
9 O.S. 2021, Section 1-706a, which relates to the No  
10 Patient Left Alone Act; modifying requirements;  
11 requiring agency reporting; requiring agency  
12 investigation of claims; creating private cause of  
13 action; creating requirements; specifying damages;  
14 providing for codification; providing an effective  
15 date; and declaring an emergency.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-706a, is  
18 amended to read as follows:

19 Section 1-706a. A. This section shall be known and may be  
20 cited as the "No Patient Left Alone Act".

21 B. Subject to the provisions of subsections D and E of this  
22 section, each minor who is admitted to a hospital licensed pursuant  
23 to Section 1-702 of ~~Title 63 of the Oklahoma Statutes~~ this title,  
24 including a minor patient hospitalized with COVID-19, has the right  
to have a parent, guardian or person standing in loco parentis who

1 shall have the ability to be physically present while the minor  
2 patient is receiving hospital care.

3 C. Subject to the provisions of subsections D and E of this  
4 section, each adult who is admitted to a hospital licensed pursuant  
5 to Section 1-702 of ~~Title 63 of the Oklahoma Statutes~~ this title,  
6 including a patient hospitalized with COVID-19, has the right to  
7 designate a spouse, or at least one family member or caregiver who  
8 shall have the ability to be physically present while the adult  
9 patient is receiving hospital care.

10 D. A hospital may establish visitation policies that limit or  
11 restrict visitation when:

12 1. The presence of visitors would be medically or  
13 therapeutically contraindicated in the best clinical judgment of  
14 health care professionals; however, a diagnosis of COVID-19 alone  
15 shall not constitute a medical or therapeutic cause for visitation  
16 rights to be removed;

17 2. The presence of visitors would interfere with the care of or  
18 rights of any patient;

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

21 4. Visitors are noncompliant with hospital policy.

22 E. A hospital may require visitors to wear personal protective  
23 equipment, provided that any such required equipment shall be  
24 provided by the hospital. A hospital may require visitors to comply

1 with reasonable safety protocols and rules of conduct. The hospital  
2 may revoke visitation rights for failure to comply with this  
3 section.

4 F. A hospital may enact policies establishing reasonable  
5 visitation hours; provided, the policies allow for a compassionate  
6 exemption process for twenty-four-hour visitation in end-of-life  
7 scenarios.

8 G. Nothing in this section shall be construed to require a  
9 hospital to allow a visitor to enter an operating room, isolation  
10 room, isolation unit, behavioral health setting or other typically  
11 restricted area or to remain present during the administration of  
12 emergency care in critical situations. Nothing in this section  
13 shall be construed to require a hospital to allow a visitor access  
14 beyond the rooms, units or wards in which the patient the visitor is  
15 visiting is receiving care or beyond general common areas in the  
16 hospital.

17 ~~G.~~ H. The rights specified in this section may not be  
18 terminated, suspended or waived by the hospital, the State  
19 Department of Health or any governmental entity, notwithstanding  
20 declarations of emergency declared by the Governor or the  
21 Legislature. No hospital licensed pursuant to Section 1-702 of  
22 ~~Title 63 of the Oklahoma Statutes~~ this title shall require a patient  
23 to waive the rights specified in this section.

24

1       ~~H.~~ I. Each hospital licensed pursuant to Section 1-702 of ~~Title~~  
2 ~~63 of the Oklahoma Statutes~~ this title shall post on its website  
3 informational materials developed by the State Department of Health  
4 explaining the rights specified in this section. The State  
5 Department of Health shall develop such informational materials and  
6 make the materials available to hospitals for this purpose.

7       ~~F.~~ J. Unless expressly required by federal law or regulation,  
8 the State Department of Health or any other state agency shall not  
9 take any action against a hospital for:

10       1. Giving a visitor individual access to a hospital-controlled  
11 property or location;

12       2. Failing to protect or otherwise ensure the safety or comfort  
13 of a visitor given access to a hospital-controlled property or  
14 location;

15       3. Failing to follow ~~the guidelines of the Centers for Disease~~  
16 ~~Control and Prevention or other federal guidelines that require or~~  
17 ~~recommend restricting visitor access~~ all reasonable facility safety  
18 protocols and rules of conduct; or

19       4. The acts or omissions of any visitor who is given access to  
20 a hospital-controlled property or location.

21       SECTION 2.       NEW LAW       A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-706b of Title 63, unless there  
23 is created a duplication in numbering, reads as follows:

24

1           1. Where a complaint has been made against a hospital for  
2 violating the No Patient Left Alone Act, a complainant may bring a  
3 civil action against the hospital for:

- 4           a. injunctive relief to prevent the hospital from further  
5                violations of this section,
- 6           b. statutory damages in the amount of Two Thousand Five  
7                Hundred Dollars (\$2,500.00) for each day that the  
8                defendant violated the No Patient Left Alone Act, and
- 9           c. costs and attorney fees.

10          2. A court may not award relief under this section in response  
11 to a violation of the No Patient Left Alone Act if the defendant  
12 demonstrates that the defendant previously paid the full amount of  
13 statutory damages in a previous action for that particular incident  
14 which violated the No Patient Left Alone Act, or if the defendant  
15 demonstrates that the defendant previously settled a civil action  
16 for the same incident that violated the No Patient Left Alone Act.

17          3. A person may bring an action under the No Patient Left Alone  
18 Act not later than one (1) year after the date of the violations of  
19 the No Patient Left Alone Act.

20          4. A defendant of an action under this section shall be  
21 entitled to costs and attorney fees as the court may find  
22 appropriate for any unmerited claims.

23          SECTION 3. This act shall become effective July 1, 2022.

1 SECTION 4. It being immediately necessary for the preservation  
2 of the public peace, health or safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

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