

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
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As Engrossed: H3/6/23 H3/8/23
A Bill

HOUSE BILL 1509

By: Representative J. Mayberry
By: Senators A. Clark, B. Davis

For An Act To Be Entitled

AN ACT TO AMEND THE NO PATIENT LEFT ALONE ACT; TO REQUIRE OUTPATIENT FACILITIES TO COMPLY WITH VISITATION AND SUPPORT PERSON REQUIREMENTS; TO ADD PENALTIES FOR A VIOLATION OF THE NO PATIENT LEFT ALONE ACT; TO AUTHORIZE SUPPORT PERSONS TO STAY OVERNIGHT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE NO PATIENT LEFT ALONE ACT; TO REQUIRE OUTPATIENT FACILITIES TO COMPLY WITH VISITATION AND SUPPORT PERSON REQUIREMENTS; AND TO ADD PENALTIES FOR A VIOLATION OF THE NO PATIENT LEFT ALONE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-6-403(2), concerning the definition of "healthcare facility" within the No Patient Left Alone Act, is amended to read as follows:

(2) "Healthcare facility" means a hospital, an office of a healthcare professional, a long-term care facility, ~~or~~ a hospice facility, or an outpatient facility;

SECTION 2. Arkansas Code § 20-6-403, concerning the definitions within the No Patient Left Alone Act, is amended to add an additional subdivision to



read as follows:

(8) "Outpatient facility" means a healthcare facility that provides either diagnosis or diagnosis and treatment of a patient who is not admitted for overnight care, including without limitation an ambulatory surgery center, an outpatient surgery center, an imaging service, and a laboratory service.

SECTION 3. Arkansas Code § 20-6-404(a), concerning the visitation and support for a patient with a disability under the No Patient Left Alone Act, is amended to read as follows:

(a) Upon the request of a patient with a disability, a hospital, an office of a healthcare professional, an outpatient facility, or a hospice facility licensed in this state shall allow a patient with a disability to designate at least three (3) support persons and shall allow at least one (1) support person to be present with the patient with a disability at all times in the emergency department and during the stay of a patient with a disability in the hospital, office of a healthcare professional, outpatient facility, or hospice facility if necessary to facilitate the care of the patient with a disability, including without limitation when the patient with a disability:

(1) Has a cognitive or mental health disability that affects the ability of a patient with a disability to make medical decisions or understand medical advice;

(2) Needs assistance with activities of daily living and the staff are unable to provide or are less effective at providing the assistance;

(3) Is deaf, hard of hearing, or has other communication barriers and requires the assistance of a support person to ensure effective communication with staff;

(4) Has behavioral health needs that the support person can address more effectively than the staff; or

(5) Is making a decision to consent to treatment or refuse treatment.

SECTION 4. Arkansas Code § 20-6-405 is amended to read as follows:

20-6-405. Hospital, ~~or~~ office of healthcare professional, or

outpatient facility visitation.

(a)(1) ~~A child has the right~~ A hospital, an office of a healthcare professional, or an outpatient facility shall allow a child to have a parent, legal guardian, or person standing in loco parentis physically present with the child while the child receives care in a hospital, ~~or an office of a healthcare professional, or an outpatient facility.~~

(2) ~~An adult patient has the right~~ A hospital, an office of a healthcare professional, or an outpatient facility shall allow an adult patient to have a spouse, support person, or legal guardian physically present with the adult patient while the adult receives care in a hospital, ~~or an office of a healthcare professional, or an outpatient facility.~~

(3) A person with a right to be physically present under subdivisions (a)(1) and (2) of this section may leave and return to the hospital, ~~or office of a healthcare professional, or outpatient facility~~ that is caring for the patient.

(b) A hospital, ~~or an office of a healthcare professional, or an outpatient facility~~ shall not:

(1) Require a patient to waive the rights specified in subdivisions (a)(1) and (2) of this section;

(2) Prevent a parent, legal guardian, or person standing in loco parentis of a child receiving care in a hospital, ~~or an office of a healthcare professional, or an outpatient facility~~ from having daily physical access to the child at reasonable times; ~~or~~

(3) Separate the parent, legal guardian, or person standing in loco parentis of a child receiving care in a hospital, ~~or an office of a healthcare professional, or an outpatient facility~~ from the child except in cases of suspected abuse or threats of violence or to prevent disruption to the care of the child; or

(4) Prohibit a person with a right to be physically present under subdivisions (a)(1) and (2) of this section from staying overnight with the patient.

(c) A hospital, ~~or an office of a healthcare professional, or an outpatient facility~~ may restrict access of any person to a patient:

- (1) At the request of the patient or a law enforcement agency;
- (2) Due to a court order;
- (3) To prevent disruption to the care of the patient;

(4)(A) If the person has signs and symptoms of a transmissible infection.

(B) However, the hospital, ~~or~~ office of a healthcare professional, or outpatient facility shall allow access through telephone, telecommunication means, or other means that ensure the protection of the patient.

(C) The person shall follow respiratory hygiene and cough etiquette as well as other infection prevention and control practices such as appropriate hand hygiene;

(5) If the person is determined to be a danger to the patient or to be contrary to the welfare of the patient; or

(6) According to visitation policies established under § 20-6-411.

SECTION 5. Arkansas Code § 20-6-408 is amended to read as follows:

20-6-408. Clergy member or lay person offering religious or spiritual support visitation.

(a) A clergy member or lay person offering religious or spiritual support may be physically present with a patient to pray with or offer spiritual support for the patient while the patient receives care in a healthcare facility.

(b) If a healthcare facility has a visitation policy that allows in-person visitation of any kind, the healthcare facility shall allow a clergy member to visit a patient who requests a visit in person or consents to be visited in person for religious purposes by a clergy member, including during a state of emergency.

(c) Notwithstanding any other provision of this chapter, when a patient's death is imminent, the healthcare facility shall allow a clergy member to visit a patient in person for religious purposes if:

(1) The patient requests or consents to be visited by the clergy member; or

(2) The patient's healthcare agent or support person requests that the patient be visited by the clergy member.

(d)(1) The healthcare facility may require the clergy member to comply with reasonable health and safety precautions, including reasonable health screenings and wearing personal protective equipment, imposed by the

healthcare facility in connection with in-person visitation for the prevention of spreading communicable diseases unless the precaution substantially burdens the ability of the clergy member to freely exercise his or her religion.

(2) If the requirements substantially burdens the ability of the clergy member, the healthcare facility may require compliance with the precautions only if compliance in that instance furthers a compelling government interest and imposes the least restrictive burden on the clergy member's exercise of religion.

(3) Notwithstanding any other provision in this chapter, a healthcare facility may restrict visits of a clergy member who fails a reasonable health screening measure or tests positive for a communicable disease.

(e) State laws enacted after the effective date of this section are subject to this section unless the law explicitly excludes application by reference to this section.

SECTION 6. Arkansas Code § 20-6-410 is amended to read as follows:
20-6-410. Complaints – Enforcement and penalties.

(a) An individual may file a complaint against a healthcare professional or healthcare facility for failing to comply with this subchapter with the appropriate state agency or licensing board, including the Department of Health and the Department of Human Services.

(b) The appropriate state agency or licensing board shall investigate the complaint.

(c) If a healthcare facility violates this subchapter, the Department of Health or the Department of Human Services may issue a warning regarding the violation and require the healthcare facility to grant visitation or comply with the relevant law within twenty-four (24) hours of the warning.

(d)(1)(A) If the healthcare facility under subsection (c) of this section does not grant visitation or comply with the relevant law within twenty-four (24) hours, a hearing as required under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall be conducted by:

(i) The Department of Health if the warning under subsection (c) of this section was issued by the Department of Health; or

(ii) The Department of Human Services if the warning

under subsection (c) of this section was issued by the Department of Human Services.

(B) A civil penalty of at least five hundred dollars (\$500) for each administratively adjudicated violation per day on the healthcare facility may be imposed.

(2) The civil penalty under subdivision (d)(1) of this section shall be:

(A) In addition to any fine or civil penalty imposed by a federal agency on the healthcare facility; and

(B) Deposited into:

(i) The Health Facility Services Revolving Fund if the Department of Health issued the warning under subsection (c) of this section; or

(ii) The Long-Term Care Trust Fund if the Department of Human Services issued the warning under subsection (c) of this section.

(3) The civil penalty under subdivision (d)(1) of this section shall not apply if a federal law, rule, or guidance limits visitation at a healthcare facility.

SECTION 7. Arkansas Code § 20-6-413(a), concerning construction of the No Patient Left Alone Act, is amended to add an additional subdivision to read as follows:

(5) Outpatient behavioral health services that are subject to confidentiality requirements under federal laws or regulations or confidentiality standards on relevant professions by state laws or rules.

/s/J. Mayberry