

Proposed House Substitute for SB 352
House Committee on Health and Human Services
March 6, 2024

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

Session of 2024

SENATE BILL No. 352

By Committee on Public Health and Welfare

1-17

1 AN ACT concerning health and healthcare; enacting the John D. Springer
2 patient's bill of rights; requiring hospitals to allow in-person visitation
3 in certain circumstances; requiring hospitals to adopt visitation policies
4 and procedures; *{establishing the medical care facility reimbursement*
5 *fund to reimburse medical care facilities for lost federal funding due*
6 *to compliance with the John D. Springer patient's bill of rights;}*
7 creating a civil cause of action for violation of such rights.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. (a) The provisions of sections 1 and ~~section 2~~, and
11 amendments thereto, shall be known and may be cited as the John D.
12 Springer patient's bill of rights.

13 (b) As used in this section:

14 (1) "Essential caregiver" means an individual designated by the
15 patient who meets an essential need of the patient by assisting with the
16 tasks of daily living or providing important emotional, social or
17 psychological support.

18 (2) "Immediate family member" means father, mother, stepparent,
19 child, grandchild, stepchild, sibling, spouse or grandparent of the patient.

20 (3) "Medical care facility" means the same as defined in K.S.A. 65-
21 425, and amendments thereto.

22 (4) "Patient" means an individual who is receiving care at or is a
23 resident of a medical care facility.

24 (c) A medical care facility shall not:

25 (1) Take action to prevent a patient from receiving in-person
26 visitation from an individual designated by the patient, if the patient has
27 the capacity to make such designation, or an individual designated by the
28 patient's agent for healthcare decisions established by a durable power of
29 attorney for healthcare decisions pursuant to K.S.A 58-625 et seq., and
30 amendments thereto, if the patient does not have such capacity. Such
31 visitor may include, but shall not be limited to:

32 (A) An immediate family member, domestic partner or significant
33 other;

34 (B) the agent for healthcare decisions established by a durable power

1 \$25,000, whichever is greater, and the cost of the suit, including
2 reasonable attorney fees.

3 *{(j) (1) If a medical care facility's compliance with this section*
4 *causes such medical care facility to be in violation of federal statutes,*
5 *regulations or United States centers for medicare and medicaid services*
6 *rulings, and such violation results in money penalties, fees or lost*
7 *funding from the United States centers for medicare and medicaid*
8 *services, the medical care facility shall certify to the secretary of health*
9 *and environment the amount of such penalties, fees or lost funding. The*
10 *secretary of health and environment shall certify such amount to the*
11 *director of accounts and reports. Upon receipt of such certification, the*
12 *director of accounts and reports shall transfer such certified amount*
13 *from the state general fund to the medical care facility reimbursement*
14 *fund. Each time the secretary transmits such certification to the director*
15 *of accounts and reports, the secretary shall transmit a copy of such*
16 *certification to the director of the budget and the director of legislative*
17 *research.*

18 *(2) There is hereby established in the state treasury the medical care*
19 *facility reimbursement fund, which shall be administered by the*
20 *secretary of health and environment. All expenditures from the medical*
21 *care facility reimbursement fund shall be made in accordance with*
22 *appropriation acts upon warrants of the director of accounts and reports*
23 *issued pursuant to vouchers approved by the secretary or the secretary's*
24 *designee. Moneys in the fund shall be used for the purpose of*
25 *reimbursing medical care facilities for penalties, fees or lost funding as*
26 *provided in paragraph (1).}*

27 Sec. 2. (a) Each patient being cared for in a medical care facility has
28 rights that the medical care facility shall protect and promote. Such rights
29 include:

30 (1) The right to choose a personal attending physician, to be fully
31 informed in advance about care and treatment, to be fully informed in
32 advance of any changes in care or treatment that may affect the patient's
33 well-being and, except with respect to a patient adjudged incompetent, to
34 participate in planning care and treatment or changes in care and
35 treatment. Such right to participate shall include the right to refuse
36 treatment or refuse transfer to another medical care facility if such refusal
37 is made in writing by the patient or the patient's legal representative;

38 (2) (A) the right to be free from physical or mental abuse, corporal
39 punishment, ~~involuntary seclusion~~ and any physical or chemical restraints
40 imposed for purposes of discipline or convenience and not required to treat
41 the patient's medical symptoms. Restraints *and involuntary seclusion* may
42 only be imposed to *manage harmful behaviors* or ensure the physical
43 safety of the patient, *staff members* or other patients and upon the written

Proposed House Substitute for SB 352
House Committee on Health and Human Services
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As Amended by House Committee

Session of 2024

HOUSE BILL No. 2548

By Committee on Health and Human Services

Requested by Representative Eplee

1-18

1 AN ACT concerning health and healthcare; enacting the no patient left
2 alone act; relating to hospitals, adult care homes and hospice facilities;
3 requiring such facilities to allow in-person visitation in certain
4 circumstances; authorizing such facilities to adopt visitation policies
5 and procedures.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) This section shall be known and may be cited as the no
9 patient left alone act.

10 (b) As used in this section:

11 (1) "Essential caregiver" means an individual designated by the
12 patient who meets an essential need of the patient by assisting with the
13 tasks of daily living or providing important emotional, social or
14 psychological support.

15 (2) "Immediate family member" means father, mother, stepparent,
16 child, grandchild, stepchild, sibling, spouse or grandparent of the patient.

17 (3) "Patient" means an individual who is receiving **end-of-life** care at
18 ~~or is a resident of~~ a patient care facility.

19 (4) "Patient care facility" includes any adult care home as defined in
20 K.S.A. 39-923, and amendments thereto, and any medical care facility as
21 defined in K.S.A. 65-425, and amendments thereto, except that "patient
22 care facility" includes a hospice that is certified to participate in the
23 medicare program under 42 C.F.R. § 418.1 et seq., and that provides
24 services only to hospice patients.

25 (c) **When providing end-of-life care**, a patient care facility shall not:

26 (1) Take action to prevent a patient from receiving in-person
27 visitation from any person designated by the patient, if the patient has the
28 capacity to make such designation, or any person designated by the
29 patient's agent for healthcare decisions established by a durable power of
30 attorney for healthcare decisions pursuant to K.S.A 58-625 et seq., and
31 amendments thereto, if the patient does not have such capacity. Such
32 visitor may include, but shall not be limited to:

33 (A) An immediate family member, domestic partner or significant
34 other;

35 (B) the agent for healthcare decisions established by a durable power

1 and procedures;

2 (4) temporarily suspend a visitor's in-person visitation if such visitor
3 violates the facility's policies and procedures;

4 (5) revoke a visitor's in-person visitation if such visitor repeatedly
5 violates the facility's policies and procedures or displays any violent or
6 aggressive behavior; or

7 (6) notwithstanding subsection (g), require a visitor to adhere to
8 infection control procedures, including wearing personal protective
9 equipment.

10 (i) The department of health and environment shall publish on its
11 website:

12 (1) An explanation of this section's visitation requirements; and

13 (2) a link **for individuals** to report complaints alleging violations of
14 this section by a patient care facility.

15 (j) A patient care facility shall be immune from civil liability for
16 damages for acts taken in compliance with this section unless such act
17 constitutes gross negligence or willful, wanton or reckless conduct.

18 (k) Nothing in this section shall be construed to:

19 (1) Supersede any federal law, rules, regulations or guidance
20 regarding patient care facilities; or

21 (2) prohibit a patient care facility from taking actions necessary to
22 ensure that such patient care facility remains eligible for federal financial
23 participation, federal funds or participation in federal programs and for
24 reimbursement for services provided in such patient care facility.

25 Sec. 2. This act shall take effect and be in force from and after its
26 publication in the statute book.