

HB151 INTRODUCED



1 7T1W22-1

2 By Representatives Wood (D), Shaver, DuBose, Mooney,
3 Stadthagen, Shedd, Rigsby, Harrison, Underwood, Whorton,
4 Hammett, Yarbrough, Robertson, Wilcox, Moore (P), Colvin,
5 Treadaway

6 RFD: Health

7 First Read: 21-Mar-23

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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



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29 visitor violates the facility's policies and
30 procedures.

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

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

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A BILL

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TO BE ENTITLED

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AN ACT

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53 Relating to health care facilities; to add Section
54 22-21-437 to the Code of Alabama 1975; to require health care
55 facilities to adopt certain visitation policies; to provide
56 that patients have a right to certain visitation; to allow



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57 patients to designate an essential caregiver and to guarantee
58 that caregiver certain visitation rights; to prohibit a health
59 care facility from adopting a visitation policy that is more
60 stringent than certain employee policies; to prohibit a health
61 care facility from requiring visitors to show proof of
62 vaccination or from prohibiting consensual physical contact
63 between visitors and patients; to provide for the
64 circumstances in which patients may not be denied visitors who
65 are not essential caregivers; to require health care
66 facilities to provide visitation policies to the Department of
67 Public Health; to require the Department of Public Health to
68 develop a mechanism for complaints; to provide certain
69 immunity from liability in certain circumstances; and to
70 repeal Sections 22-21-430 through 22-21-436, Code of Alabama
71 1975, relating to hospital visitation during a public health
72 emergency.

73 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

74 Section 1. The Legislature finds that Representative
75 Debbie Wood, whose mother, Peggy Hamby, succumbed to COVID-19,
76 is forever remembered by the Alabama Legislature in the spirit
77 of this bill. This bill represents Mrs. Hamby and the
78 countless Alabamians who tragically lost relatives and loved
79 ones during the COVID-19 pandemic.

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

82 §22-21-437

83 (a) This section shall be known and may be cited as the
84 Harold Sachs and Ann Roberts Act.



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85 (b) For the purposes of this section, the term "health
86 care facility" means a general acute hospital, long-term care
87 facility, skilled nursing facility, intermediate care
88 facility, assisted living facility, or specialty care assisted
89 living facility.

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

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

100 (1) Infection control and education policies for
101 visitors.

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

104 (3) The permissible length of visits and numbers of
105 visitors in accordance with this section.

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

108 (e) (1) Safety-related policies and procedures may not
109 be more stringent than those established for the provider's
110 staff and may not require visitors to submit proof of any
111 vaccination or immunization. The policies and procedures must
112 allow consensual physical contact between a resident, client,



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113 or patient and the visitor.

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

117 (f) (1) A resident, client, or patient may designate a
118 visitor who is a family member, friend, guardian, or other
119 individual as an essential caregiver. The resident, client, or
120 patient may designate a different essential caregiver each
121 day, if he or she chooses. Additionally, he or she may
122 establish a rotation designating who his or her essential
123 caregiver will be on a given day. The provider shall allow
124 in-person visitation by the essential caregiver for at least
125 two hours daily in addition to any other visitation authorized
126 by the facility. This subsection does not require an essential
127 caregiver to provide necessary care to a resident, client, or
128 patient of a provider, and providers may not require an
129 essential caregiver to provide such care.

130 (2)a. If a patient, client, or resident is
131 incapacitated and unable to designate an essential caregiver,
132 one of the following shall appoint an essential caregiver on
133 behalf of the patient, client, or resident, in the following
134 order of priority:

135 1. The individual's guardian, as defined by Section
136 26-2A-20.

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

139 b. If the individual does not have a guardian or a
140 durable power of attorney, a family member shall appoint an



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141 essential caregiver on behalf of the patient, client, or
142 resident, in the following order of priority:

143 1. The individual's spouse.

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

146 3. The individual's parent or parents.

147 4. The individual's sibling or siblings.

148 c. An individual appointing an essential caregiver on
149 behalf of an incapacitated patient, client, or resident may
150 appoint a caregiver in the same manner as provided in
151 subdivision (1).

152 (g) The visitation policies and procedures required by
153 this section must allow in-person visitation in all of the
154 following circumstances, unless the resident, client, or
155 patient objects:

156 (1) End-of-life situations.

157 (2) A resident, client, or patient who was living with
158 family before being admitted to the provider's care is
159 struggling with the change in environment and lack of
160 in-person family support.

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

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

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



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

171 (7) For hospitals, childbirth, including labor and
172 delivery.

173 (8) Pediatric patients.

174 (h) The policies and procedures may require a visitor
175 to agree in writing to follow the health care facility's
176 policies and procedures. A health care facility may suspend
177 in-person visitation of a specific visitor if the visitor
178 violates the provider's policies and procedures.

179 (i) (1) Each health care facility shall provide its
180 visitation policies and procedures to the Alabama Department
181 of Health when applying for initial licensure, licensure
182 renewal, or change of ownership. The health care facility must
183 make the visitation policies and procedures available to the
184 agency for review at any time, upon request.

185 (2) Within 24 hours after establishing the policies and
186 procedures required under this section, providers must make
187 the policies and procedures easily accessible from the
188 homepage of their websites.

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

193 (j) An individual may not bring a civil action against
194 a health care facility, its employees, or its contracted staff
195 for injuries sustained because of the acts or omissions of a
196 health care facility, its employees, or its contracted staff



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197 taken in compliance with this section, unless the complaining
198 party can show by substantial evidence that the health care
199 facility, its employees, or its contracted staff failed to
200 follow this section and applicable guidelines. This subsection
201 does not apply to wanton, willful, reckless, or intentional
202 misconduct.

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

206 Section 4. This act shall become effective immediately
207 following its passage and approval by the Governor, or its
208 otherwise becoming law.