

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1259

By: Garvin of the Senate

and

6 Roe of the House

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9  
10 COMMITTEE SUBSTITUTE

11 An Act relating to hospital visitation; amending 63  
12 O.S. 2021, Section 1-706a, which relates to the No  
13 Patient Left Alone Act; providing for applicability  
14 of act to certain minor patients; modifying  
15 provisions related to right of adult patients;  
16 prescribing standard related to presence of visitors;  
17 authorizing hospitals to enact policies related to  
18 visitation hours; providing for policies related to  
19 end-of-life; modifying provisions related to actions  
20 against hospitals; authorizing civil actions;  
21 prescribing remedies; providing for affirmative  
22 defense to actions; prescribing statute of  
23 limitation; authorizing recovery of costs and  
24 attorney fees; providing for codification; and  
declaring an emergency.

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

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

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

3 B. Subject to the provisions of subsections ~~D and E~~ and F of  
4 this section, each minor who is admitted to a hospital licensed  
5 pursuant to Section 1-702 of ~~Title 63 of the Oklahoma Statutes~~ this  
6 title including a minor patient has the right to have a parent,  
7 guardian or person standing in loco parentis who shall have the  
8 ability to be physically present while the minor patient is  
9 receiving hospital care.

10 C. Subject to the provisions of subsections ~~D and E~~ and F of  
11 this section, each adult who is admitted to a hospital licensed  
12 pursuant to Section 1-702 of ~~Title 63 of the Oklahoma Statutes~~ this  
13 title including a patient hospitalized with COVID-19 has the right  
14 to designate a spouse, or at least one family member or caregiver  
15 who shall have the ability to be physically present while the adult  
16 patient is receiving hospital care.

17 D. Subject to the provisions of subsections E and F of this  
18 section and in addition to the rights specified in subsection B or C  
19 of this section, each minor or adult who is admitted for labor and  
20 delivery to a hospital licensed pursuant to Section 1-702 of this  
21 title has the right to have a midwife, doula, or birth coach who  
22 shall have the ability to be present while the patient is receiving  
23 hospital care.

1        E. A hospital may establish visitation policies that limit or  
2 restrict visitation when:

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

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

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

12           4. Visitors are noncompliant with hospital policy.

13        ~~E.~~ F. A hospital may require visitors to wear personal  
14 protective equipment, provided that any such required equipment  
15 shall be provided by the hospital. A hospital may require visitors  
16 to comply with reasonable safety protocols and rules of conduct.  
17 The hospital may revoke visitation rights for failure to comply with  
18 this section.

19        ~~F.~~ G. A hospital may enact policies establishing reasonable  
20 visitation hours; provided, the policies allow for a compassionate  
21 exemption process for twenty-four-hour visitation in end-of-life  
22 scenarios.

23        H. Nothing in this section shall be construed to require a  
24 hospital to allow a visitor to enter an operating room, isolation

1 room, isolation unit, behavioral health setting or other typically  
2 restricted area or to remain present during the administration of  
3 emergency care in critical situations. Nothing in this section  
4 shall be construed to require a hospital to allow a visitor access  
5 beyond the rooms, units or wards in which the patient the visitor is  
6 visiting is receiving care or beyond general common areas in the  
7 hospital.

8 ~~G.~~ I. The rights specified in this section may not be  
9 terminated, suspended or waived by the hospital, the State  
10 Department of Health or any governmental entity, notwithstanding  
11 declarations of emergency declared by the Governor or the  
12 Legislature. No hospital licensed pursuant to Section 1-702 of  
13 ~~Title 63 of the Oklahoma Statutes~~ this title shall require a patient  
14 to waive the rights specified in this section.

15 ~~H.~~ J. Each hospital licensed pursuant to Section 1-702 of ~~Title~~  
16 ~~63 of the Oklahoma Statutes~~ this title shall post on its website  
17 informational materials developed by the State Department of Health  
18 explaining the rights specified in this section. The State  
19 Department of Health shall develop such informational materials and  
20 make the materials available to hospitals for this purpose.

21 ~~F.~~ K. Unless expressly required by federal law or regulation,  
22 the State Department of Health or any other state agency shall not  
23 take any action against a hospital for:  
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- 1           1. Giving a visitor individual access to a hospital-controlled  
2 property or location;
- 3           2. Failing to protect or otherwise ensure the safety or comfort  
4 of a visitor given access to a hospital-controlled property or  
5 location;
- 6           3. Failing to follow ~~the guidelines of the Centers for Disease~~  
7 ~~Control and Prevention or other federal guidelines that require or~~  
8 ~~recommend restricting visitor access~~ all reasonable facility safety  
9 protocols and rules of conduct; or
- 10          4. The acts or omissions of any visitor who is given access to  
11 a hospital-controlled property or location.

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

15           A midwife, doula, or birth coach who is performing services  
16 under a contract directly with a patient admitted for labor and  
17 delivery to a hospital licensed pursuant to Section 1-702 of Title  
18 63 of the Oklahoma Statutes shall not be subject to the same  
19 required policies of an employee or contractor of the hospital.

20           SECTION 3.           NEW LAW           A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1-706c of Title 63, unless there  
22 is created a duplication in numbering, reads as follows:

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1       A. 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       1. Injunctive relief to prevent the hospital from further  
5 violations of this section;

6       2. Statutory damages in the amount of Two Thousand Five Hundred  
7 Dollars (\$2,500.00); and

8       3. Costs and attorney fees.

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

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

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

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

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