

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2021-171
SENATE BILL 191

AN ACT PROVIDING PATIENT VISITATION RIGHTS WILL NOT BE IMPACTED DURING DECLARED DISASTERS AND EMERGENCIES AND DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO IMPOSE A CIVIL PENALTY FOR ANY VIOLATION OF THOSE RIGHTS.

Whereas, the COVID-19 pandemic has caused great uncertainty and anxiety across our State and has significantly affected patients and residents in health care facilities; and

Whereas, health care facilities have made many efforts to keep patients and employees in a safe environment and have endeavored to minimize, to the extent possible, the risk of spread of the coronavirus disease; and

Whereas, as a result of COVID-19 prevention measures, many unintended consequences have occurred to patients and residents of these facilities who were not diagnosed with COVID-19; and

Whereas, the General Assembly has become aware of numerous patients and residents of health care facilities across our State who were not diagnosed with COVID-19, but as a result of visitation policies have been prohibited from having any visitors, including a spouse, parent, close family member, guardian, health care agent, or caregiver; and

Whereas, many families have been unable to be physically present with their loved ones while in a hospital, nursing home, combination home, hospice care, adult care home, special care unit, or residential treatment setting for mental illness, developmental or intellectual disability, or substance use disorder, and have been limited to electronic video communications, if any, with the patient; and

Whereas, the patients and residents who have been affected in the above-described manner have included adults, minors, and individuals with intellectual or developmental disabilities; and

Whereas, the General Assembly finds that it is in the interest of the State and its residents that these patients and residents of health care facilities, in compliance with the rules, regulations, and guidelines of the Centers for Medicare and Medicaid Services and federal law, should not be denied visitation by visitors of their choosing throughout the period of hospitalization or residential treatment; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "The No Patient Left Alone Act."

SECTION 2. Article 5 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-79.3. Hospital patient visitation, civil penalty.

(a) Each hospital licensed under this Chapter shall permit patients to receive visitors to the fullest extent permitted under any applicable rules, regulations, or guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for Disease Control and Prevention or any federal law.



(b) In the event the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, or any other federal agency finds a hospital has violated any rule, regulation, guidance, or federal law relating to a patient's visitation rights, the Department may issue a warning to the hospital about the violation and give the hospital not more than 24 hours to allow visitation. If visitation is not allowed after the 24-hour warning period, the Department shall impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the hospital was found to have a violation. This civil penalty shall be in addition to any fine or civil penalty that the Centers for Medicare and Medicaid Services or other federal agency may choose to impose.

(c) Notwithstanding the provisions of subsection (b) of this section, in the event that circumstances require the complete closure of a hospital to visitors, the hospital shall use its best efforts to develop alternate visitation protocols that would allow visitation to the greatest extent safely possible. If those alternate protocols are found by the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, or any other federal agency to violate any rule, regulation, guidance, or federal law relating to a patient's visitation rights, the Department may impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the hospital was found to have a violation. This civil penalty shall be in addition to any fine or civil penalty that the Centers for Medicare and Medicaid Services or other federal agency may choose to impose.

(d) Each hospital shall provide notice of the patient visitation rights in this act to patients and, when possible, family members of patients. The required notice shall also include the contact information for the agency or individuals tasked with investigating violations of hospital patient visitation.

(e) Each hospital shall allow compassionate care visits. A hospital may require compassionate care visitors to submit to health screenings necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the contrary in this section, a hospital may restrict a compassionate care visitor who does not pass a health screening requirement or who has tested positive for an infectious disease. A hospital may require compassionate care visitors to adhere to infection control procedures, including wearing personal protective equipment. Compassionate care situations that require visits include, but are not limited to, the following:

- (1) End-of-life situations.
- (2) A patient who was living with his or her family before recently being admitted to the facility is struggling with the change in environment and lack of physical family support.
- (3) A patient who is grieving after a friend or family member recently passed away.
- (4) A patient who needs cueing and encouragement with eating or drinking, previously provided by family or caregivers, is experiencing weight loss or dehydration.
- (5) A patient, who used to talk and interact with others, is experiencing emotional distress, seldom speaking, or crying more frequently when the patient had rarely cried in the past.

(f) The Commission shall adopt rules necessary to require each hospital to have written policies and procedures for visitation."

SECTION 3. Part 1 of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-112.5. Patient visitation rights for nursing home residents and combination home residents.

(a) Each nursing or combination home licensed under this Part shall permit patients and residents to receive visitors to the fullest extent permitted under any applicable rules, regulations,

or guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for Disease Control and Prevention or any federal law.

(b) In the event the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, or any other federal agency finds a nursing or combination home has violated any rule, regulation, guidance, or federal law relating to a patient's or resident's visitation rights, the Department may issue a warning to the nursing or combination home about the violation and give the nursing or combination home not more than 24 hours to allow visitation. If visitation is not allowed after the 24-hour warning period, the Department shall impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the nursing or combination home was found to have a violation. This civil penalty shall be in addition to any fine or civil penalty that the Centers for Medicare and Medicaid Services or other federal agency may choose to impose.

(c) Notwithstanding the provisions of subsection (b) of this section, in the event that circumstances require the complete closure of a nursing or combination home to visitors, the nursing or combination home shall use its best efforts to develop alternate visitation protocols that would allow visitation to the greatest extent safely possible. If those alternate protocols are found by the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, or any other federal agency to violate any rule, regulation, guidance, or federal law relating to a patient's or resident's visitation rights, the Department may impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the nursing or combination home was found to have a violation. This civil penalty shall be in addition to any fine or civil penalty that the Centers for Medicare and Medicaid Services or other federal agency may choose to impose.

(d) Each nursing or combination home shall provide notice of the patient and resident visitation rights in this act to patients and residents and, when possible, family members of patients and residents. The required notice shall also include the contact information for the agency or individuals tasked with investigating violations of nursing or combination home patient and resident visitation.

(e) Each nursing or combination home shall allow compassionate care visits. A nursing or combination home may require compassionate care visitors to submit to health screenings necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the contrary in this section, a nursing or combination home may restrict a compassionate care visitor who does not pass a health screening requirement or who has tested positive for an infectious disease. A nursing or combination home may require compassionate care visitors to adhere to infection control procedures, including wearing personal protective equipment. Compassionate care situations that require visits include, but are not limited to, the following:

- (1) End-of-life situations.
- (2) A resident who was living with his or her family before recently being admitted to the facility is struggling with the change in environment and lack of physical family support.
- (3) A resident who is grieving after a friend or family member recently passed away.
- (4) A resident who needs cueing and encouragement with eating or drinking, previously provided by family or caregivers, is experiencing weight loss or dehydration.
- (5) A resident, who used to talk and interact with others, is experiencing emotional distress, seldom speaking, or crying more frequently when the resident had rarely cried in the past."

SECTION 4. Article 10 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-207.5. Patient visitation rights for residents of hospice care facilities.

(a) Each hospice care facility licensed under this Article shall permit patients to receive visitors to the fullest extent permitted under any applicable rules, regulations, or guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for Disease Control and Prevention or any federal law.

(b) In the event the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, or any other federal agency finds a hospice care facility has violated any rule, regulation, guidance, or federal law relating to a patient's visitation rights, the Department may issue a warning to the hospice care facility about the violation and give the hospice care facility not more than 24 hours to allow visitation. If visitation is not allowed after the 24-hour warning period, the Department shall impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the hospice care facility was found to have a violation. This civil penalty shall be in addition to any fine or civil penalty that the Centers for Medicare and Medicaid Services or other federal agency may choose to impose.

(c) Notwithstanding the provisions of subsection (b) of this section, in the event that circumstances require the complete closure of a hospice care facility to visitors, the hospice care facility shall use its best efforts to develop alternate visitation protocols that would allow visitation to the greatest extent safely possible. If those alternate protocols are found by the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, or any other federal agency to violate any rule, regulation, guidance, or federal law relating to a patient's visitation rights, the Department may impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the hospice care facility was found to have a violation. This civil penalty shall be in addition to any fine or civil penalty that the Centers for Medicare and Medicaid Services or other federal agency may choose to impose.

(d) Each hospice care facility shall provide notice of the patient visitation rights in this act to patients and, when possible, family members of patients. The required notice shall also include the contact information for the agency or individuals tasked with investigating violations of hospice care facility patient visitation.

(e) Each hospice care facility shall allow compassionate care visits. A hospice care facility may require compassionate care visitors to submit to health screenings necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the contrary in this section, a hospice care facility may restrict a compassionate care visitor who does not pass a health screening requirement or who has tested positive for an infectious disease. A hospice care facility may require compassionate care visitors to adhere to infection control procedures, including wearing personal protective equipment. Compassionate care situations that require visits include, but are not limited to, the following:

- (1) End-of-life situations.
- (2) A patient who was living with his or her family before recently being admitted to the facility is struggling with the change in environment and lack of physical family support.
- (3) A patient who is grieving after a friend or family member recently passed away.
- (4) A patient who needs cueing and encouragement with eating or drinking, previously provided by family or caregivers, is experiencing weight loss or dehydration.
- (5) A patient, who used to talk and interact with others, is experiencing emotional distress, seldom speaking, or crying more frequently when the patient had rarely cried in the past."

SECTION 5. Part 1 of Article 1 of Chapter 131D of the General Statutes is amended by adding a new section to read:

"§ 131D-7.5. Patient visitation rights for adult care home residents and special care unit residents.

(a) Any facility licensed under this Chapter shall allow residents to receive visitors of their choice to the fullest extent permitted under the infection and prevention control program of the facility and applicable guidelines or orders issued by the Centers for Disease Control and Prevention, the Department, local health departments, or any other government public health agency.

(b) In the event the Department finds an adult care home has violated any rule, regulation, guidance, directive, or law relating to a resident's visitation rights, the Department may issue a warning to the facility about the violation and give the facility not more than 24 hours to allow visitation. If visitation is not allowed after the 24-hour warning period, the Department shall impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the facility was found to have a violation. This civil penalty shall be in addition to any licensure action, fine, or civil penalty that the Department may impose pursuant to this Chapter.

(c) Notwithstanding the provisions of subsection (b) of this section, in the event that circumstances require the complete closure of a facility to visitors, the facility shall use its best efforts to develop alternate visitation protocols that would allow visitation to the greatest extent safely possible. If those alternate protocols are found by the Department, the local health departments, or any other government public health agency to violate any rule, regulation, guidance, or federal law relating to a resident's visitation rights, the Department may impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the hospice was found to have a violation. This civil penalty shall be in addition to any licensure action, fine, or civil penalty that the Department may impose pursuant to this Chapter.

(d) Each facility shall provide notice of the patient visitation rights in this act to residents and, when possible, family members of residents. The required notice shall also include the contact information for the agency or individuals tasked with investigating violations of adult care home resident visitation.

(e) Each facility shall allow compassionate care visits. The facility may require compassionate care visitors to submit to health screenings necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the contrary in this section, the facility may restrict a compassionate care visitor who does not pass a health screening requirement or who has tested positive for an infectious disease. The facility may require compassionate care visitors to adhere to infection control procedures, including wearing personal protective equipment. Compassionate care situations that require visits include, but are not limited to, the following:

- (1) End-of-life situations.
- (2) A resident who was living with his or her family before recently being admitted to the facility is struggling with the change in environment and lack of physical family support.
- (3) A resident who is grieving after a friend or family member recently passed away.
- (4) A resident who needs cueing and encouragement with eating or drinking, previously provided by family or caregivers, is experiencing weight loss or dehydration.
- (5) A resident, who used to talk and interact with others, is experiencing emotional distress, seldom speaking, or crying more frequently when the resident had rarely cried in the past."

SECTION 6. Article 2 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"§ 122C-32. Patient visitation rights for residents of residential treatment facilities.

(a) Any facility licensed under this Chapter shall allow clients to receive visitors of their choice to the fullest extent permitted under the infection and prevention control program of the facility and applicable guidelines or orders issued by the Centers for Disease Control and

Prevention, the Department, local health departments, or any other government public health agency.

(b) In the event the Department finds a facility has violated any rule, regulation, guidance, directive, or law relating to a client's visitation rights, the Department may issue a warning to the facility about the violation and give the facility not more than 24 hours to allow visitation. If visitation is not allowed after the 24-hour warning period, the Department shall impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the facility was found to have a violation. This civil penalty shall be in addition to any licensure action, fine, or civil penalty that the Department may impose pursuant to this Chapter.

(c) Notwithstanding the provisions of subsection (b) of this section, in the event that circumstances require the complete closure of a facility to visitors, the facility shall use its best efforts to develop alternate visitation protocols that would allow visitation to the greatest extent safely possible. If those alternate protocols are found by the Department, the local health departments, or any other government public health agency to violate any rule, regulation, guidance, or federal law relating to a client's visitation rights, the Department may impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the facility was found to have a violation. This civil penalty shall be in addition to any fine or civil penalty that the Centers for Medicare and Medicaid Services or other federal agency may choose to impose and any licensure action, fine, or civil penalty that the Department may impose pursuant to this Chapter.

(d) Each facility shall provide notice of the client visitation rights in this act to clients and, when possible, family members of clients. The required notice shall also include the contact information for the agency or individuals tasked with investigating violations of facility client visitation.

(e) Each facility shall allow compassionate care visits. The facility may require compassionate care visitors to submit to health screenings necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the contrary in this section, the facility may restrict a compassionate care visitor who does not pass a health screening requirement or who has tested positive for an infectious disease. The facility may require compassionate care visitors to adhere to infection control procedures, including wearing personal protective equipment. Compassionate care situations that require visits include, but are not limited to, the following:

- (1) End-of-life situations.
- (2) A resident who was living with his or her family before recently being admitted to the facility is struggling with the change in environment and lack of physical family support.
- (3) A resident who is grieving after a friend or family member recently passed away.
- (4) A resident who needs cueing and encouragement with eating or drinking, previously provided by family or caregivers, is experiencing weight loss or dehydration.
- (5) A resident, who used to talk and interact with others, is experiencing emotional distress, seldom speaking, or crying more frequently when the resident had rarely cried in the past."

SECTION 7. This act becomes effective November 1, 2021.

In the General Assembly read three times and ratified this the 7th day of October, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 9:51 a.m. this 15th day of October, 2021