**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT “THE NO PATIENT LEFT ALONE ACT” BY ADDING SECTIONS 44‑7‑395 AND 44‑71‑120 SO AS TO SAFEGUARD PATIENT AND RESIDENT VISITATION RIGHTS IN CERTAIN HEALTH CARE FACILITIES DURING DECLARED DISASTERS AND EMERGENCIES, TO DIRECT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO IMPOSE A CIVIL PENALTY FOR ANY VIOLATION OF THOSE RIGHTS, AND FOR OTHER PURPOSES.

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 or residents 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 health care facility, and have been limited to electronic video communications, if any, with the patient or resident; 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 care or treatment. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

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

SECTION 2. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Section 44‑7‑395. (A) Each hospital, nursing home, rehabilitation facility, community residential care facility, intermediate care facility for persons with intellectual disability, residential treatment facility for children and adolescents, and residential facility for chemically dependent or addicted persons licensed pursuant to this article shall permit patients or 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 hospital, nursing home, rehabilitation facility, community residential care facility, intermediate care facility for persons with intellectual disability, residential treatment facility for children and adolescents, or residential facility for chemically dependent or addicted persons 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 health care facility about the violation and give the health care facility not more than twenty‑four hours to allow visitation. If visitation is not allowed after the twenty‑four‑hour warning period, the department shall impose a civil penalty in an amount not less than five hundred dollars for each instance on each day the health 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), in the event that circumstances require the complete closure of a hospital, nursing home, rehabilitation facility, community residential care facility, intermediate care facility for persons with intellectual disability, residential treatment facility for children and adolescents, or residential facility for chemically dependent or addicted persons to visitors, the health 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 or resident’s visitation rights, the department may impose a civil penalty in an amount not less than five hundred dollars for each instance on each day the health 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 hospital, nursing home, rehabilitation facility, community residential care facility, intermediate care facility for persons with intellectual disability, residential treatment facility for children and adolescents, and residential facility for chemically dependent or addicted persons shall provide notice of the patient or resident visitation rights of this section to patients or residents and, when possible, family members of patients or residents. The required notice also must include the contact information for the agency or individuals tasked with investigating violations of the health care facility’s patient or resident visitation.

(E) Each hospital, nursing home, rehabilitation facility, community residential care facility, intermediate care facility for persons with intellectual disability, residential treatment facility for children and adolescents, and residential facility for chemically dependent or addicted persons shall allow compassionate care visits. A health 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 health 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 health 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 or 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 patient or resident who is grieving after a friend or family member recently passed away.

(4) A patient or resident who needs cueing and encouragement with eating or drinking, previously provided by family or caregivers, is experiencing weight loss or dehydration.

(5) A patient or resident, who used to talk and interact with others, is experiencing emotional distress, seldom speaking, or crying more frequently when the patient or resident had rarely cried in the past.

(F) The department shall promulgate regulations necessary to require each hospital, nursing home, rehabilitation facility, community residential care facility, intermediate care facility for persons with intellectual disability, residential treatment facility for children and adolescents, and residential facility for chemically dependent or addicted persons to have written policies and procedures for visitation.

(G) For purposes of this section, ‘health care facility’ means a hospital, nursing home, rehabilitation facility, community residential care facility, intermediate care facility for persons with intellectual disability, residential treatment facility for children and adolescents, or residential facility for chemically dependent or addicted persons licensed pursuant to Article 3, Chapter 7, Title 44.”

SECTION 3. Chapter 71, Title 44 of the 1976 Code is amended by adding:

“Section 44‑71‑120. (A) Each hospice facility licensed pursuant to 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 hospice 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 facility about the violation and give the hospice facility not more than twenty‑four hours to allow visitation. If visitation is not allowed after the twenty‑four hour warning period, the department shall impose a civil penalty in an amount not less than five hundred dollars for each instance on each day the hospice 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), in the event that circumstances require the complete closure of a hospice facility to visitors, the hospice 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 for each instance on each day the hospice 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 facility shall provide notice of the patient visitation rights in this section to patients and, when possible, family members of patients. The required notice also must include the contact information for the agency or individuals tasked with investigating patient visitation violations for hospice facilities.

(E) Each hospice facility shall allow compassionate care visits. A hospice 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, 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 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 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 8. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 9. This act takes effect upon approval by the Governor.

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