

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; creating a civil cause of action for violation of such
5 rights.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

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

11 (b) As used in this section:

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

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

18 (3) "Medical care facility" means the same as defined in K.S.A. 65-
19 425, and amendments thereto.

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

22 (c) A medical care facility shall not:

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

30 (A) An immediate family member, domestic partner or significant
31 other;

32 (B) the agent for healthcare decisions established by a durable power
33 of attorney for healthcare decisions pursuant to K.S.A. 58-625 et seq., and
34 amendments thereto;

35 (C) an essential caregiver; or

36 (D) a minister, priest, rabbi or clergyperson of any religious

- 1 denomination or sect to which the patient is an adherent; or
- 2 (2) prohibit a patient who is terminally ill or receiving end-of-life
3 care from receiving in-person visitation from two individuals at a time.
- 4 (d) A patient may refuse in-person visitation or revoke previously
5 granted in-person visitation from any individual at any time.
- 6 (e) (1) Each medical care facility shall, prior to September 1, 2024,
7 establish visitation policies and procedures that:
- 8 (A) Allow in-person visitation, unless the patient objects;
- 9 (B) are provided to the medical care facility's licensing agency at the
10 time of initial licensure or renewal or any time upon request; and
- 11 (C) are easily accessible from the homepage of the medical care
12 facility's website.
- 13 (2) A medical care facility shall not adopt infection control protocols
14 for visitors that are more stringent than such policies for employees of the
15 medical care facility who are providing direct care to patients.
- 16 (3) A medical care facility may:
- 17 (A) Adopt visitation policies and procedures that are more stringent
18 for intensive or critical care units;
- 19 (B) require a visitor to agree in writing to follow the facility's policies
20 and procedures;
- 21 (C) temporarily suspend a visitor's in-person visitation if such visitor
22 violates the facility's policies and procedures;
- 23 (D) revoke a visitor's in-person visitation if such visitor repeatedly
24 violates the facility's policies and procedures or displays any violent or
25 aggressive behavior; or
- 26 (E) notwithstanding subsection (e)(2), require a visitor to adhere to
27 infection control procedures, including wearing personal protective
28 equipment.
- 29 (f) The secretary of health and environment shall publish on the
30 department of health and environment's website an explanation of this
31 section's visitation requirements and a link to report complaints alleging
32 violations of this section by a medical care facility.
- 33 (g) A medical care facility shall be immune from civil liability for
34 damages for acts taken in compliance with this section unless such act
35 constitutes gross negligence or willful, wanton or reckless conduct.
- 36 (h) In an action brought for a violation of this section, a prevailing
37 plaintiff shall recover the actual damages such individual sustained or
38 \$25,000, whichever is greater, and the cost of the suit, including
39 reasonable attorney fees.
- 40 Sec. 2. (a) Each patient being cared for in a medical care facility has
41 rights that the medical care facility shall protect and promote. Such rights
42 include:
- 43 (1) The right to choose a personal attending physician, to be fully

1 informed in advance about care and treatment, to be fully informed in
2 advance of any changes in care or treatment that may affect the patient's
3 well-being and, except with respect to a patient adjudged incompetent, to
4 participate in planning care and treatment or changes in care and
5 treatment. Such right to participate shall include the right to refuse
6 treatment or refuse transfer to another medical care facility if such refusal
7 is made in writing by the patient or the patient's legal representative;

8 (2) the right to be free from physical or mental abuse, corporal
9 punishment, involuntary seclusion and any physical or chemical restraints
10 imposed for purposes of discipline or convenience and not required to treat
11 the patient's medical symptoms. Restraints may only be imposed to ensure
12 the physical safety of the patient or other patients and upon the written
13 order of a physician that specifies the duration and circumstances under
14 which the restraints are to be used, except in emergency circumstances
15 until such order could reasonably be obtained;

16 (3) the right to privacy regarding accommodations, medical
17 treatment, written and telephonic communications, visits and meetings of
18 family and other visitors;

19 (4) the right to confidentiality of personal and clinical records and
20 access to current clinical records of the patient upon request by the patient
21 or the patient's legal representative;

22 (5) the right to receive services with reasonable accommodation of
23 individual needs and preferences, except where the health or safety of the
24 individual or other patients would be endangered;

25 (6) the right to voice grievances with respect to treatment or care that
26 is or fails to be furnished, without discrimination or reprisal for voicing the
27 grievances, and the right to prompt efforts by the medical care facility to
28 resolve grievances of the patient;

29 (7) the right of the patient to participate in social, religious and
30 community activities that do not interfere with the rights of other patients
31 in the medical care facility; and

32 (8) the right to examine, upon reasonable request, the results of the
33 most recent survey of the patient facility conducted by the medical care
34 facility's licensing body with respect to the medical care facility and any
35 plan of correction in effect with respect to the medical care facility.

36 (b) In any action brought for a violation of this section, a prevailing
37 plaintiff shall recover the actual damages such individual sustained or
38 \$25,000, whichever is greater, and the cost of the suit, including
39 reasonable attorney fees.

40 (c) As used in this section:

41 (1) "Medical care facility" means the same as defined in K.S.A. 65-
42 425, and amendments thereto.

43 (2) "Patient" means an individual who is receiving care at or is a

- 1 resident of a medical care facility.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the Kansas register.