

**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)(2) 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) ***For a patient under 18 years of age, a parent or guardian shall***  
30 ***be allowed to accompany a minor at all times.***

31 (g) The secretary of health and environment shall publish on the  
32 department of health and environment's website an explanation of this  
33 section's visitation requirements and a link to report complaints alleging  
34 violations of this section by a medical care facility.

35 (h) A medical care facility shall be immune from civil liability for  
36 damages for acts taken in compliance with this section unless such act  
37 constitutes gross negligence or willful, wanton or reckless conduct.

38 (i) In an action brought for a violation of this section, a prevailing  
39 plaintiff shall recover the actual damages such individual sustained or  
40 \$25,000, whichever is greater, and the cost of the suit, including  
41 reasonable attorney fees.

42 Sec. 2. (a) Each patient being cared for in a medical care facility has  
43 rights that the medical care facility shall protect and promote. Such rights

1 include:

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

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

19 **(B) the use of restraint or seclusion in a treatment facility shall not**  
20 **exceed three hours without medical reevaluation, except that such**  
21 **medical reevaluation shall not be required, unless necessary, between**  
22 **the hours of 12:00 midnight and 8:00 a.m.**

23 (3) the right to privacy regarding accommodations, medical  
24 treatment, written and telephonic communications, visits and meetings of  
25 family and other visitors;

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

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

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

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

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

43 (b) In any action brought for a violation of this section, a prevailing

1 plaintiff shall recover the actual damages such individual sustained or  
2 \$25,000, whichever is greater, and the cost of the suit, including  
3 reasonable attorney fees.

4 (c) As used in this section:

5 (1) "Medical care facility" means the same as defined in K.S.A. 65-  
6 425, and amendments thereto.

7 (2) "Patient" means an individual who is receiving care at or is a  
8 resident of a medical care facility.

9 Sec. 3. This act shall take effect and be in force from and after its  
10 publication in the Kansas register.