



Department of Human Services

Division of Provider Services & Quality Assurance

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Notice of No Patient Left Alone Act

On March 1, 2021, the Arkansas General Assembly amended Arkansas Code Title 20, Chapter 6 and added subchapter 4- No Patient Left Alone Act. This act addresses the visitation rights of patients and residents and is applicable to healthcare facilities, long-term care facilities, a hospital, or an office of a healthcare professional. Long-Term Care facilities include nursing homes, residential care facilities, post-acute head injury retraining and residential facilities, intermediate care facilities for individuals with developmental disabilities, assisted living facilities, and facilities that provide long-term medical or personal care.

The Act states “it is in the interest of the state and its citizens that a patient be allowed at least one (1) support person who is permitted to be physically present with the patient on a daily basis at reasonable times throughout his or her hospitalization, visit to the office of a healthcare professional, or institutionalization.” Important information regarding the provisions in the Act are below.

WHAT IS COMPASSIONATE CARE?

The Act defines compassionate care visitation as a visit with a friend or family member that is necessary to meet the physical or mental needs of a resident when they exhibit signs of physical/mental distress, including, without limitation:

- 1) End-of-life situations;
- 2) Adjustment support after moving to a new environment;
- 3) Emotional support after the loss of a friend or family member;
- 4) Physical support after eating or drinking issues, especially if they are experiencing weight loss or dehydration;
- 5) Social support after frequent crying, distress, or depression.

Compassionate care visitation includes clergy members, lay persons offering religious or spiritual support, other persons requested by the resident for the purpose of a compassionate care visit, and a person providing a service requested by the resident, such as a hair dresser or barber.

WHAT ARE MY VISITATION RIGHTS IF I HAVE A DISABILITY?

Upon the request of a patient with a disability, a hospital, office of a healthcare professional, or hospice facility licensed in this state shall allow a patient with a disability to choose at least three (3) support persons and shall allow at least one (1) support person to be present with the patient at all times in the emergency department and during the stay of a patient in the hospital, office of a healthcare professional, or hospice facility if necessary to facilitate the care of the patient with a disability, including without limitation when the patient:

- (1) Has a cognitive or mental health disability that affects the ability of a patient with a disability to make medical decisions or understand medical advice;

- (2) Needs assistance with activities of daily living and the staff are unable to provide or are less effective at providing the assistance;
- (3) Is deaf, hard of hearing, or has other communication barriers and requires the assistance of a support person to ensure effective communication with staff;
- (4) Has behavioral health needs that the support person can address more effectively than the staff; or
- (5) Is making a decision to consent to treatment or refuse treatment.

A healthcare professional or healthcare facility shall not discriminate against a patient with a disability by requiring the patient to execute an advance directive or a physician order for life-sustaining treatment as a condition of receiving treatment or visitation; or agree to a do-not-resuscitate or similar order as a condition of receiving treatment or visitation.

Healthcare professionals or healthcare facilities still have an obligation to provide patients with effective communication supports or other reasonable accommodations in accordance with federal and state laws and an obligation to make exceptions to the visitor policy of a healthcare facility as a reasonable accommodation under the Americans with Disabilities 11 Act of 1990, 42 U.S.C. § 12101 et seq., as existing on January 1, 2021.

WHAT ARE MY RIGHTS AT A HOSPITAL OR HEALTHCARE PROFESSIONAL'S OFFICE?

According to the Act, a child has the right to have a parent, legal guardian, or person standing in loco parentis physically present with the child while the child receives care in a hospital or an office of a healthcare professional.

An adult patient has the right to have a spouse, support person, or legal guardian physically present with the adult patient while the adult receives care in a hospital or an office of a healthcare professional.

A person with a right to be physically present may leave and return to the hospital or office of a healthcare professional that is caring for the patient.

CAN HOSPITALS OR HEALTHCARE PROFESSIONALS RESTRICT VISITATION?

A hospital or an office of a healthcare professional shall not:

- 1) Require a patient to waive the rights specified in this Act;
- 2) Prevent a parent, legal guardian, or person standing in loco parentis of a child receiving care in a hospital or an office of a healthcare professional from having daily physical access to the child at reasonable times; or
- 3) Separate the parent, legal guardian, or person standing in loco parentis of a child receiving care in a hospital or an office of a healthcare professional from the child except in cases of suspected abuse or threats of violence or to prevent disruption to the care of the child.

A hospital or an office of a healthcare professional may restrict access of any person to a patient:

- 1) At the request of the patient or a law enforcement agency;
- 2) Due to a court order;
- 3) To prevent disruption to the care of the patient;
- 4) If the person has signs and symptoms of a transmissible infection;

- a. However, the hospital or office of a healthcare professional shall allow access through telephone, telecommunication means, or other means to ensure the protection of the patient.
 - b. The person shall follow respiratory hygiene and cough etiquette as well as other infection prevention and control practices such as appropriate hand hygiene;
- 5) If the person is determined to be a danger to the patient or to be contrary to the welfare of the patient;
- 6) According to visitation policies regarding visitation limits or restrictions under A.C.A. § 20-6-411.

WHAT ARE MY VISITATION RIGHTS IN HOSPICE CARE?

A patient who is receiving hospice care or the guardian, spouse, or support person of a patient who is receiving hospice care may choose additional family members and friends who may be physically present with the patient at reasonable times.

WHAT SHOULD LONG-TERM CARE FACILITIES DO?

Long-term care facilities shall allow compassionate care visitation as needed by the resident to alleviate physical or mental distress. Facilities shall adopt a protocol for personal contact that adheres to appropriate infection prevention guidelines disseminated by the Centers for Disease Control and Prevention (CDC) or the Centers for Medicare and Medicaid Services (CMS). Personal contact with a resident is permitted during visitation, if the long-term care facility's protocol is followed. Facilities shall work with residents, families, caregivers, resident representatives, medical providers, and the ombudsman program to identify the need for compassionate care visitation.

Each long-term care facility shall identify one (1) or more ways to allow compassionate care visitation, including personal contact, that minimize the risk of infection to the resident and other residents in that facility. Long term care facilities with no new onset of COVID-19 in the last fourteen (14) days and in counties with COVID-19 positivity rates that are less than ten percent (10%), shall accommodate and support indoor visitation for reasons beyond compassionate care visitation. Compassionate care visitation shall continue even if the infection rate is high in the county where the long-term facility is located.

Facilities may limit the number of visitors, per resident, at a long-term care facility based on the size of the building and physical space and movement in the long-term care facility, such as requiring the visitor to go directly to the resident's room or designated visitation area. Visits for residents who share a room shall not be conducted in a resident's room unless the health status of the resident prevents leaving the room. Healthcare workers who are not employees of the long-term care facility, but provide direct care to a resident, shall be permitted to enter the long-term care facility if proper infection control protocols are followed.

Long term care facilities shall also ensure that decisions regarding end-of-life care are made by a resident with capacity or by the representative of a resident without capacity, as provided in the Arkansas Healthcare Decisions Act, § 20-6-101 et seq. Within the scope of visitation provided by this section, a long-term care facility shall permit a resident making decisions regarding end-of-life care to be accompanied by a family member, guardian, or support person designated by the resident, unless the resident declines or requests to have the discussion outside of the presence of a family member, guardian, or support person.

CAN LONG-TERM CARE FACILITIES RESTRICT VISITATION?

Facilities shall not restrict visitation without a reasonable clinical or safety cause, consistent with 42 CFR § 483.10(f)(4)(v). A nursing home must facilitate in-person visitation consistent with the applicable state and federal regulations and guidance (Please refer to the [CMS Revisions to the Guidance for Visitation/COVID-19](#) for additional information regarding the federal guidance).

However, a facility may limit or restrict visitation when:

- 1) The presence of visitors would be medically or therapeutically contraindicated;
- 2) The presence of visitors would interfere with the care of or rights of any patient;
- 3) Visitors are engaging in disruptive, threatening, or violent behavior toward any staff member, patient, or other visitor; or
- 4) Visitors are noncompliant with healthcare facility policy.

CAN I FILE A COMPLAINT IF I BELIEVE I HAVE BEEN DENIED VISITATION?

An individual may file a complaint with the appropriate state agency or licensing board, including the Department of Health and the Department of Human Services (DHS), for failing to comply with the No Patient Left Alone Act. To the extent permitted by state and federal laws, the long-term care facility could be subject to citation and enforcement actions. DHS complaints can be lodged by calling 1-800-582-4887, or they can be sent to fax number 501-682-8551 or Complaints.OLTC@arkansas.gov.

The No Patient Left Alone Act does not apply to the Arkansas State Hospital, a minor in the custody of the Division of Children and Family Services, a suspected victim in a pending maltreatment investigation, an individual in the custody of the Department of Corrections, or an individual who is attending a preventive healthcare office visit. The requirements of the No Patient Left Alone Act establishes a minimum for visitation, and rights cannot be terminated, suspended, or waived by: a healthcare facility, the Department of Health, the State Board of Health, the Department of Human Services, or the Governor upon declaring a disaster emergency.