

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 191
Health Care Committee Substitute Adopted 4/28/21
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Proposed Conference Committee Substitute S191-PCCS35331-BC-5

Short Title: The No Patient Left Alone Act.

(Public)

Sponsors:

Referred to:

March 9, 2021

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

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

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

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

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

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

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

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

31 The General Assembly of North Carolina enacts:

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

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



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1 **"§ 131E-79.3. Hospital patient visitation, civil penalty.**

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

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

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

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

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

36 (1) End-of-life situations.

37 (2) A patient who was living with his or her family before recently being admitted
38 to the facility is struggling with the change in environment and lack of
39 physical family support.

40 (3) A patient who is grieving after a friend or family member recently passed
41 away.

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

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

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

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

1 "§ 131E-112.5. Patient visitation rights for nursing home residents and combination home
2 residents.

3 (a) Each nursing or combination home licensed under this Part shall permit patients and
4 residents to receive visitors to the fullest extent permitted under any applicable rules, regulations,
5 or guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers
6 for Disease Control and Prevention or any federal law.

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

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

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

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

41 (1) End-of-life situations.

42 (2) A resident who was living with his or her family before recently being
43 admitted to the facility is struggling with the change in environment and lack
44 of physical family support.

45 (3) A resident who is grieving after a friend or family member recently passed
46 away.

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

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

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

6 "**§ 131E-207.5. Patient visitation rights for residents of hospice care facilities.**

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

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

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

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

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

42 (1) End-of-life situations.

43 (2) A patient who was living with his or her family before recently being admitted
44 to the facility is struggling with the change in environment and lack of
45 physical family support.

46 (3) A patient who is grieving after a friend or family member recently passed
47 away.

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

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

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

6 **"§ 131D-7.5. Patient visitation rights for adult care home residents and special care unit**
7 **residents.**

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

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

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

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

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

41 (1) End-of-life situations.

42 (2) A resident who was living with his or her family before recently being
43 admitted to the facility is struggling with the change in environment and lack
44 of physical family support.

45 (3) A resident who is grieving after a friend or family member recently passed
46 away.

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

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

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

6 **"§ 122C-32. Patient visitation rights for residents of residential treatment facilities.**

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

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

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

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

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

41 (1) End-of-life situations.

42 (2) A resident who was living with his or her family before recently being
43 admitted to the facility is struggling with the change in environment and lack
44 of physical family support.

45 (3) A resident who is grieving after a friend or family member recently passed
46 away.

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

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

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