

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1861

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE EGGLESTON.

3959H.01P

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapters 191 and 194, RSMo, by adding thereto ten new sections relating to rights of patients.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 191 and 194, RSMo, are amended by adding thereto ten new sections, to be known as sections 191.1400, 191.1405, 191.1410, 191.1415, 191.1425, 191.1427, 191.1430, 191.1437, 191.1440, and 194.321, to read as follows:

**191.1400. Sections 191.1400 to 191.1440 shall be known and may be cited as the "No Patient Left Alone Act".**

**191.1405. For purposes of sections 191.1400 to 191.1440, the following terms mean:**

**(1) "Compassionate care visitation", a visit that is:**

**(a) With a resident's friend, family member, or other essential caregiver including, but not limited to, any of the following:**

**a. A clergy member;**

**b. A lay person offering religious or spiritual support;**

**c. Any other person requested by the resident for the purpose of a compassionate care visit; and**

**d. A person providing a service requested by the resident, such as a hairdresser or barber; and**

**(b) Necessary to meet the physical or mental needs of the resident including, but not limited to:**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14           a. In end-of-life situations;
- 15           b. For adjustment support or communication support including, but not limited
- 16 to, assistance with hearing and speaking;
- 17           c. For emotional support;
- 18           d. For physical support after eating or drinking issues, including weight loss or
- 19 dehydration; or
- 20           e. For social support;
- 21           (2) "Essential support person", an individual designated by the patient to
- 22 advocate or provide support for the patient including, but not limited to, an individual
- 23 designated as a caregiver under section 191.1150;
- 24           (3) "Health care facility", a hospital as defined in section 197.020, an office of a
- 25 health care professional, a long-term care facility, or a hospice facility;
- 26           (4) "Health care professional", a person who is licensed, certified, or otherwise
- 27 authorized by the laws of this state to administer health care in the ordinary course of
- 28 the practice of his or her profession;
- 29           (5) "Hospice facility", a facility providing hospice care required to be
- 30 certificated under sections 197.250 to 197.280;
- 31           (6) "Long-term care facility":
- 32           (a) A facility as defined in subdivision (6), (14), (22), or (23) of section 198.006;
- 33           (b) A post-acute head injury retraining and residential facility; or
- 34           (c) An intermediate care facility for individuals with developmental disabilities.
- 191.1410. 1. Upon the request of a patient or his or her legal guardian, a health
- 2 care facility licensed in this state shall allow the patient or his or her legal guardian to
- 3 designate at least three essential support persons in addition to a spouse or legal
- 4 guardian and shall allow a spouse or legal guardian and at least one essential support
- 5 person to be present with the patient at all times in the emergency department and
- 6 during the stay of the patient in the health care facility.
- 7           2. A health care facility shall not discriminate against a patient by requiring the
- 8 patient to:
- 9           (1) Execute an advance directive or a physician order for life-sustaining
- 10 treatment as a condition of receiving treatment or visitation;
- 11           (2) Agree to a do-not-resuscitate or similar order as a condition of receiving
- 12 treatment or visitation; or
- 13           (3) Have been vaccinated against any disease in order to receive treatment or
- 14 visitation.
- 15           3. This section shall not affect any obligation of a health care facility to:

16           (1) Provide patients with effective communication supports or other reasonable  
17 accommodations in accordance with federal and state laws; or

18           (2) Make exceptions to the visitor policy of a health care facility as a reasonable  
19 accommodation under the Americans with Disabilities Act of 1990, 42 U.S.C. Section  
20 12101 et seq., as existing on January 1, 2021.

21           4. Notwithstanding the other provisions of this section, a health care facility may  
22 limit:

23           (1) The number of visitors per patient at one time based on the size of the  
24 building and physical space;

25           (2) Movement of visitors within the health care facility; and

26           (3) Access of any person to a patient:

27           (a) At the request of the patient or a law enforcement agency;

28           (b) Due to a court order;

29           (c) To prevent substantial disruption to the care of a patient;

30           (d) If the person has measurable signs and symptoms of a transmissible  
31 infection; except that, the health care facility shall allow access through telephone,  
32 means of telecommunication, or other means that ensure the protection of the patient;  
33 or

34           (e) If the health care facility has reasonable cause to suspect the person of being  
35 a danger to the patient or to be contrary to the health or welfare of the patient or other  
36 patients.

37           5. The health care facility shall have the burden of proof to establish that it is  
38 entitled to limit access under subsection 4 of this section.

39           6. Nothing in this section shall limit a health care facility from limiting or  
40 redirecting visitors to a patient in a shared room to ensure the health and safety of the  
41 patients in the shared room.

          191.1415. 1. (1) A child has the right to have a parent, legal guardian, or person  
2 standing in loco parentis physically present with the child while the child receives care  
3 in a health care facility.

4           (2) An adult patient has the right to have a spouse or legal guardian and an  
5 essential support person physically present with the adult patient while the adult patient  
6 receives care in a health care facility.

7           (3) A person with a right to be physically present under subdivision (1) or (2) of  
8 this subsection may leave and return to the health care facility that is caring for the  
9 patient.

10           2. A health care facility shall not:

11           (1) Require a patient to waive the rights specified in subdivisions (1) and (2) of  
12 subsection 1 of this section;

13           (2) Prevent a parent, legal guardian, or person standing in loco parentis of a  
14 child receiving care in a health care facility from having daily physical access to the  
15 child at reasonable times; or

16           (3) Separate the parent, legal guardian, or person standing in loco parentis of a  
17 child receiving care in a health care facility from the child, except in cases of suspected  
18 abuse or threats of violence or to prevent disruption to the care of the child.

          191.1425. 1. (1) A long-term care facility shall allow compassionate care  
2 visitation as needed by the resident.

3           (2) Personal contact in person with a resident is permitted during a  
4 compassionate care visitation if the long-term care facility protocol is followed.

5           2. A long-term care facility shall work with residents, families, caregivers,  
6 resident representatives, and medical providers, and may include the office of state  
7 ombudsman for long-term care facility residents established in section 192.2305, to  
8 identify the need for compassionate care visitation using a person-centered approach  
9 that takes the requests of residents into account.

10          3. Within the scope of visitation provided by this section, a long-term care  
11 facility shall permit a resident making decisions regarding end-of-life care to be  
12 accompanied by a family member, guardian, or essential support person designated by  
13 the resident unless the resident declines or requests to have the discussion outside the  
14 presence of a family member, guardian, or essential support person.

15          4. (1) A long-term care facility may limit:

16           (a) The number of visitors per resident at one time based on the size of the  
17 building and physical space; and

18           (b) Movement in the long-term care facility, such as requiring the visitor to go  
19 directly to the resident's room or designated visitation area.

20          (2) A visit for a resident who shares a room shall not be conducted in the  
21 resident's room unless the health status of the resident prevents leaving the room.

22          5. Health care workers who are not employees of the long-term care facility but  
23 provide direct care to a resident in the long-term care facility, such as hospice workers,  
24 emergency medical services personnel, dialysis technicians, laboratory technicians,  
25 radiology technicians, and social workers, shall be permitted into the long-term care  
26 facility if proper infection control protocols are followed.

          191.1427. Nothing in sections 191.1410 to 191.1425 shall be construed to prohibit  
2 health care facilities from adopting reasonable safety or security restrictions or  
3 requirements for visitors.

191.1430. 1. Within thirty days of the effective date of this section, the department of health and senior services and the department of social services shall develop informational materials regarding sections 191.1400 to 191.1440.

2. A health care facility shall make the informational materials regarding sections 191.1400 to 191.1440 accessible:

(1) Upon admission or registration; and

(2) On any website of the health care facility.

191.1437. 1. No health care facility shall be held liable for damages in an action involving a liability claim against the health care facility arising from the compliance of the health care facility with the provisions of sections 191.1400 to 191.1440.

2. The immunity set forth in subsection 1 of this section shall be provided in addition to, and shall in no way limit, any other immunity protections that may apply in state or federal law.

191.1440. 1. Sections 191.1400 to 191.1440 do not apply to:

(1) Any inpatient facility operated by the department of mental health;

(2) A minor who is:

(a) In the custody of the children's division of the department of social services;

or

(b) A suspected victim in a pending child abuse or neglect investigation;

(3) An individual who is in the custody of the department of corrections; or

(4) An individual who is attending a preventive health care office visit during which evidence-based guidelines for preventive care recommend a confidential visit component for youth, as mutually agreed to by the patient and his or her physician.

2. Sections 191.1400 to 191.1440 do not:

(1) Affect the rights of a legal guardian or holder of a power of attorney; or

(2) Waive or change the long-term care facility residents' rights under sections 198.088 and 198.090.

3. The requirements under sections 191.1400 to 191.1440 shall be established as a minimum for visitation in a health care facility but shall not limit visitation at a health care facility to only visitation outlined in sections 191.1400 to 191.1440.

4. The rights specified in sections 191.1400 to 191.1440 shall not be terminated, suspended, or waived by:

(1) A health care facility;

(2) The department of health and senior services;

(3) The department of social services; or

(4) The governor upon declaring an emergency under chapter 44.

194.321. 1. For purposes of this section, the following terms mean:

2           (1) "COVID-19 vaccination status", an indication of whether a person has  
3 received a vaccination against COVID-19;

4           (2) "Hospital", the same meaning given to the term in section 197.020;

5           (3) "Procurement organization", the same meaning given to the term in section  
6 194.210.

7           2. No hospital, physician, procurement organization, or other person shall  
8 consider the COVID-19 vaccination status of a potential organ transplant recipient or  
9 potential organ donor in any part of the organ transplant process including, but not  
10 limited to:

11           (1) The referral of a patient to be considered for a transplant;

12           (2) The evaluation of a patient for a transplant;

13           (3) The consideration of a patient for placement on a waiting list;

14           (4) A patient's particular position on a waiting list; and

15           (5) The evaluation of a potential donor to determine his or her suitability as an  
16 organ donor.

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