

WITHDRAWN

Representative Setzler of the 35th offers the following amendment:

1 *Amend SB 215 (LC 33 8807S) by inserting after "facilities;" on line 8 the following:*

2 to amend Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
3 regulation and construction of hospitals and other health care facilities, so as to prohibit
4 hospitals and long-term care facilities from instituting any policy that limits patients' or
5 residents' abilities to be visited by a legal representative as a condition precedent to
6 obtaining or maintaining a permit to operate a hospital or long-term care facility; to require
7 the institution of policies by hospitals and long-term care facilities; to prohibit long-term
8 care facilities from instituting any policy that limits residents' abilities to be visited by
9 essential caregivers as a condition precedent to obtaining or maintaining a permit to operate
10 a long-term care facility; to provide for visitor policies; to provide for definitions; to
11 provide for reasonable safety precautions; to authorize the resident to change essential
12 caregivers; to authorize temporary suspension or termination of access of a legal
13 representative or essential caregiver; to provide for civil action; to provide for statutory
14 construction; to provide for rules and regulations; to provide for enforcement; to provide
15 for a short title;

16 *By inserting between lines 72 and 73 the following:*

17 **SECTION 1A.**

18 Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation and
19 construction of hospitals and other health care facilities, is amended by adding a new article
20 to read as follows:

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"ARTICLE 16

31-7-430.

This article shall be known and may be cited as the 'Patient and Resident Representation Act.'

31-7-431.

As used in this article, the term:

(1) 'Essential caregiver' means an individual age 18 years old or older who is a support person or caregiver designated by a patient or resident to assist with such patient or resident's activities and support their health, health care, long-term care, and overall well-being.

(2) 'Legal representative' means an individual 21 years old or older designated by a patient or resident to assist in exercising such patient or resident's fundamental right to make informed decisions regarding care, be informed of his or her health status, be involved in care planning and treatment, request or refuse treatment, access medical or personal information, financial matters, or act on behalf of such patient or resident. Unless otherwise designated by the patient or resident, such legal representative shall be the person authorized and empowered to act on behalf of the patient or resident pursuant to Code Section 31-9-2.

(3) 'Long-term care facility' means a skilled nursing home, intermediate care home, personal care home, assisted living community, community living arrangement, or inpatient hospice facility.

(4) 'Visitor' means an individual authorized by a patient or resident to have access to in-person visitation in a hospital or long-term care facility.

44 31-7-432.

45 (a) On and after July 1, 2021, each hospital and long-term care facility shall institute
46 distinct and independent policies relating to:

47 (1) Legal representatives;

48 (2) Essential caregivers; and

49 (3) Visitors.

50 (b) Such policies shall:

51 (1) Be posted prominently on such hospital or long-term care facility's website and be
52 made immediately available in printed form on the premises upon request; and

53 (2) Require that an individual or group of individuals be designated by the hospital or
54 long-term care facility to provide information or receive formal complaints regarding
55 policies or decisions relating to legal representatives, essential caregivers, and visitors as
56 provided for in this article. The names and contact information for such designated
57 individual or group of individuals shall be published on the hospital or long-term care
58 facility's website and shall include, but shall not be limited to, the physical address, email
59 address, and direct phone number to which questions or complaints may be directed as
60 provided in this article.

61 31-7-433.

62 (a) On and after July 1, 2021, as a condition precedent to obtaining or maintaining a permit
63 under this chapter to operate, a hospital or long-term care facility shall not institute any
64 policy that limits any patient or resident's ability to have access to in-person contact with
65 the legal representative of such patient or resident for less than one hour per day during any
66 period of hospitalization, treatment, or residence that lasts for a period exceeding 12 hours,
67 whether or not the patient or resident is competent.

68 (b) Notwithstanding Code Section 38-3-51, it shall be the policy of this state regarding the
69 patient's exercise of rights under 42 C.F.R. 482.13(b)(2) that the fundamental right of

70 patients or residents to make informed decisions regarding care, be informed of his or her
71 health status, be involved in care planning and treatment, request or refuse treatment,
72 access medical or personal information, manage financial matters, or have a legal
73 representative act on behalf of such patient or resident depends upon the patient or resident
74 having access to in-person contact with their legal representative in accordance with
75 subsection (a) of this Code section; furthermore, such access to in-person contact with his
76 or her legal representative is deemed equally essential to the provision of health care as
77 access to the services of medical professionals, staff, or agents of the hospital or long-term
78 care facility; provided, however, that on an individual case-by-case basis, for patients in
79 operating rooms, transplant wards, burn units, or requiring physical isolation for violent
80 emergency psychiatric or the patient's own exceptional immunocompromised conditions,
81 the patient's attending physician may, upon medical necessity, restrict or postpone a
82 patient's access to in-person contact with their legal representative for up to 48 hours, and
83 the standing orders of a hospital or acute care unit shall not satisfy this exception.

84 (c) Hospitals and long-term care facilities shall not be prevented from imposing reasonable
85 safety requirements specific to each clinical or residential setting to effectuate the in-person
86 contact of legal representatives with patients or residents required pursuant to this Code
87 section; provided, however, that a hospital or long-term care facility may temporarily
88 suspend or terminate the access of a legal representative:

89 (1) For failure to comply with reasonable safety requirements; or

90 (2) To any patient or resident who is under the custody of a law enforcement agency or
91 a correctional institution.

92 General safety requirements imposed by a hospital or long-term care facility pursuant to
93 this Code section shall be posted on the hospital or long-term care facility's website and be
94 made available upon request in printed form.

95 (d) Reasonable costs of complying with the safety requirements of subsection (c) of this
96 Code section may be borne by the legal representative.

97 (e) The Governor shall not be authorized to waive or otherwise limit the provisions of this
98 Code section pursuant to Code Section 38-3-51.

99 (f) Nothing in this Code section shall be construed to establish that a legal representative
100 is an employee or agent of the hospital or long-term care facility.

101 (g) Any patient or resident may bring a civil action in court for only injunctive relief for
102 the failure of a hospital, long-term care facility, or governmental entity to comply with the
103 provisions of this Code section.

104 31-7-434.

105 (a) On and after July 1, 2021, as a condition precedent to obtaining or maintaining a permit
106 under this chapter to operate, a long-term care facility shall not institute any policy that
107 limits any resident's ability to have in-person contact with an essential caregiver during any
108 period of treatment or residence that lasts for a period exceeding 24 hours, whether or not
109 the resident is competent, subject to the limitations set forth by the Governor in any
110 emergency declaration issued pursuant to Code Section 38-3-51.

111 (b) Long-term care facilities shall not be prevented from imposing reasonable safety
112 requirements specific to each residential setting to effectuate the in-person contact of any
113 essential caregivers with residents in the long-term care facility as required pursuant to this
114 Code section; provided, however, that a long-term care facility may temporarily suspend
115 or terminate the access of an essential caregiver:

116 (1) For failure to comply with reasonable safety requirements; or

117 (2) To any resident who is under the custody of a law enforcement agency or a
118 correctional institution.

119 Any such safety requirements shall provide that at least a total of two such legal
120 representatives or essential caregivers are authorized to have in-person contact with such
121 resident for no less than a single period of two hours per day.

122 (c) General safety requirements imposed by a long-term care facility pursuant to
123 subsection (b) of this Code section shall be posted on the long-term care facility's website
124 and be made available upon request in printed form.

125 (d) Reasonable costs of complying with the safety requirements of subsection (b) of this
126 Code section may be borne by the essential caregiver.

127 (e) The resident shall have discretion to designate and change his or her list of essential
128 caregivers in accordance with reasonable guidelines established by the department.

129 (f) Nothing in this Code section shall be construed to establish that an essential caregiver
130 is an employee or agent of the long-term care facility.

131 (g) Any resident may bring a civil action in court for only injunctive relief for the failure
132 of a long-term care facility or governmental entity to comply with the provisions of this
133 Code section.

134 31-7-435.

135 (a) On and after July 1, 2021, hospitals and long-term care facilities shall institute visitor
136 policies, appropriate to their clinical and residential settings, that are no more restrictive
137 to visitation than the minimum standards promulgated by the federal Centers for Medicare
138 and Medicaid Services.

139 (b) Hospitals and long-term care facilities shall not be prevented from imposing reasonable
140 safety requirements relating to the in-person contact of visitors with patients or residents.
141 Such general safety requirements shall be posted on the hospital or long-term care facility's
142 website and be made available upon request in printed form.

143 (c) Reasonable costs of complying with the safety requirements of subsection (b) of this
144 Code section may be borne by the visitor.

145 31-7-436.

146 (a) The department shall establish rules and regulations narrowly tailored to implement the
147 provisions of this article.

148 (b) The department shall be authorized to take civil, disciplinary, or administrative action
149 against any hospital or long-term care facility for noncompliance with this article.

150 (c) Nothing in this article shall be construed to limit any right of a patient or resident
151 recognized under any provision of state or federal law or regulation.

152 (d) The provisions of this article shall be construed to comply with the requirements of the
153 federal Centers for Medicare and Medicaid Services to obtain funding for patients,
154 residents, hospitals, or long-term care facilities."