

ADOPTED

Representatives Setzler of the 35th, Newton of the 123rd, and Petrea of the 166th offer the following amendment:

Amend the Senate substitute to HB 290 (LC 33 8818S) by striking lines 1 through 42 and inserting in lieu thereof the following:

To amend Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation and construction of hospitals and other health care facilities, so as to prohibit hospitals and long-term care facilities from instituting any policy that limits patients' or residents' abilities to be visited by a legal representative as a condition precedent to obtaining or maintaining a permit to operate a hospital or long-term care facility; to require the institution of policies by hospitals and long-term care facilities; to prohibit long-term care facilities from instituting any policy that limits residents' abilities to be visited by essential caregivers as a condition precedent to obtaining or maintaining a permit to operate a long-term care facility; to provide for visitor policies; to provide for definitions; to provide for reasonable safety precautions; to authorize the resident to change essential caregivers; to authorize temporary suspension or termination of access of a legal representative or essential caregiver; to provide for civil action; to provide for statutory construction; to provide for rules and regulations; to provide for enforcement; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

22 "ARTICLE 16

23 31-7-430.

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

26 31-7-431.

27 As used in this article, the term:

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

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

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

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

45 31-7-432.

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

48 (1) Legal representatives;

49 (2) Essential caregivers; and

50 (3) Visitors.

51 (b) Such policies shall:

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

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

62 31-7-433.

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

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

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

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

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

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

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

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

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

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

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

106 31-7-434.

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

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

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

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

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

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

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

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

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

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

31-7-435.

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

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

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

147 31-7-436.

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

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

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

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

157 **SECTION 2.**

158 All laws and parts of laws in conflict with this Act are repealed.