

HOUSE BILL NO. 52

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES VANCE, McCabe, Carpenter

Introduced: 1/30/23

Referred: Health and Social Services, State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the right of patients and residents to have a support person in
2 person during treatment and during stays at certain facilities; and relating to a
3 requirement that health care facilities make certain information available to the public."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Alaska No Patient Left Alone Act.

8 * **Sec. 2.** AS 18.08 is amended by adding a new section to read:

9 **Sec. 18.08.093. Right of patients to support person.** (a) A provider of
10 emergency medical services who treats a patient shall allow a support person of the
11 patient's choice to be in person during treatment, subject to reasonable restrictions.
12 The support person may be any individual and is not required to be the patient's
13 surrogate under AS 13.52.030.

14 (b) A provider of emergency medical services shall have written policies and

procedures regarding a patient's right to have a support person in person during treatment, including provisions describing any clinically necessary or reasonable restriction the provider may place on access to the patient and the reason for the restriction. A provider of emergency medical services shall inform each patient or support person, as appropriate, of the patient's right to have a support person in person, including any restriction on that right, and shall ensure that a support person enjoys full and equal visitation privileges consistent with patient preferences and the policies and procedures. A support person's visitation privileges may not be limited to the visitation hours of the provider of emergency medical services.

(c) A patient's right to a support person under this section may not be withheld based on a state or federal declaration of disaster.

(d) The rights specified in this section may not be terminated, suspended, or waived by the Department of Health or any other state agency.

(e) Within 24 hours after adopting the policies and procedures required in (b) of this section, a provider of emergency medical services that maintains an Internet website shall make the policies and procedures available to the public on the provider's Internet website. If the provider does not maintain an Internet website available to the public, the provider shall make the policies and procedures available to the public in printed form and display a notice in a place conspicuous to visitors stating that the policies and procedures may be requested at any time.

* **Sec. 3.** AS 18.20 is amended by adding new sections to read:

Article 6. Patient and Resident Right to Support Persons.

Sec. 18.20.600. Right of patients and residents to support person. (a) A hospital or mental health facility shall allow a patient to have a support person of the patient's choice in person at all times during the patient's stay. A long-term care facility or hospice shall allow a resident to have a support person of the resident's choice in person at all times during the resident's stay. The support person may be any individual and is not required to be the patient's or resident's surrogate under AS 13.52.030.

(b) A hospital, mental health facility, long-term care facility, or hospice must have written policies and procedures regarding a patient's or resident's right to have a

support person in person during the patient's or resident's stay, including provisions describing any clinically necessary or reasonable restriction the hospital, mental health facility, long-term care facility, or hospice may place on access to the patient or resident and the reason for the restriction. A hospital, mental health facility, long-term care facility, or hospice shall inform each patient, resident, or support person, as appropriate, of the patient's or resident's right to have a support person in person, including any restriction on that right, and shall ensure that a support person enjoys full and equal visitation privileges consistent with patient or resident preferences and the policies and procedures. A hospital, mental health facility, long-term care facility, or hospice may not require a support person to provide proof of the support person's vaccination or immunization status.

(c) A patient's or resident's right to a support person under this section may not be withheld based on a state or federal declaration of disaster.

(d) Within 24 hours after adopting the policies and procedures required in (b) of this section, a hospital, mental health facility, long-term care facility, or hospice that maintains an Internet website shall make the policies and procedures available to the public on the Internet website of the hospital, facility, or hospice. If the hospital, mental health facility, long-term care facility, or hospice does not maintain an Internet website available to the public, the hospital, mental health facility, long-term care facility, or hospice shall make the policies and procedures available to the public in printed form and display a notice in a place conspicuous to visitors stating that the policies and procedures may be requested at any time.

Sec. 18.20.605. Minors in health care facilities. (a) A minor has the right to have a parent, guardian, or person standing in the place of a parent in person with the minor at all times while the minor receives care as a patient in a health care facility.

(b) A parent, guardian, or person standing in the place of a parent who is in person under (a) of this section may leave during the course of a patient's stay or appointment and return to the health care facility that is caring for the patient.

(c) A health care facility may not

(1) require a patient to waive the right granted under (a) of this section;

(2) prevent a parent, guardian, or person standing in the place of a

parent of a minor receiving care in the health care facility from having daily physical access to the minor at reasonable times; or

(3) separate from a minor receiving care in the health care facility the parent, guardian, or person standing in the place of a parent of the minor, except in cases of suspected abuse, threats of violence, or to prevent disruption to the care of the minor.

Sec. 18.20.610. Complaints to the commissioner of health. An individual may file a complaint with the commissioner of health if a health care professional or health care facility violates AS 18.08.093, AS 18.20.600, or 18.20.605. The commissioner of health shall investigate the complaint. If the commissioner finds a violation of AS 18.08.093, AS 18.20.600, or 18.20.605, the commissioner may impose a penalty adopted under AS 47.05.010(18).

Sec. 18.20.620. Civil liability. (a) A patient, support person, parent, guardian, or person standing in the place of a parent may bring a civil cause of action against a health care professional or health care facility that violates AS 18.08.093, AS 18.20.600, or 18.20.605.

(b) If a plaintiff prevails in an action brought under this section, the court shall enjoin the defendant from violating AS 18.08.093, AS 18.20.600, or 18.20.605, or aiding or abetting a violation of AS 18.08.093, AS 18.20.600, or 18.20.605, and award

(1) nominal damages in an amount of not less than \$1,000;

(2) compensatory damages for injury or harm, including loss of consortium and emotional distress, resulting from the defendant's conduct; and

(3) costs and attorney fees as provided in AS 09.60.010.

Sec. 18.20.630. Health care facility liability. Unless required by federal law or regulation, a state agency may not take action against a health care facility for prohibiting a visitor

(1) from entering an operating room, isolation room, isolation unit, behavioral health setting, or other typically restricted area;

(2) from remaining in person during the administration of emergency care in critical situations; or

(3) access beyond the room, unit, or ward in which the patient or

resident the visitor is visiting is receiving care, or beyond general common areas.

Sec. 18.20.635. Construction of AS 18.20.600 - 18.20.630. (a) Nothing in AS 18.20.600 - 18.20.630

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

(2) waives or changes a long-term care facility resident's rights under AS 47.62.

(b) A health care facility may restrict access of a person to a patient or resident

(1) at the request of the patient or a law enforcement agency; or

(2) according to a court order.

(c) If a health care facility has restricted physical access to a patient or resident, the health care facility shall allow the patient access to visitors through telephone, telecommunication, or other means that ensure the protection of the patient or resident.

(d) The rights specified in AS 18.20.600 and 18.20.605 may not be terminated, suspended, or waived by

(1) a health care facility;

(2) the Department of Health; or

(3) the governor upon declaring a disaster emergency ordering the Department of Health to take action, ordering any other state agency to take action, or in any other manner available under state law.

Sec. 18.20.640. Definitions. In AS 18.20.600 - 18.20.640,

(1) "guardian" has the meaning given in AS 13.26.066(j);

(2) "health care facility" means a hospital, health care provider's office, long-term care facility, mental health facility, or hospice licensed in this state;

(3) "health care provider" has the meaning given in AS 18.23.400;

(4) "hospice" has the meaning given in AS 47.32.900;

(5) "hospital" has the meaning given in AS 18.20.130;

(6) "long-term care facility" has the meaning given to "long term care facility" in AS 47.62.090;

(7) "mental health facility" has the meaning given to "designated treatment facility" in AS 47.30.915;

1 (8) "minor" has the meaning given in AS 47.30.705;

2 (9) "resident" means a person receiving services from a long-term care
3 facility or hospice.

4 * **Sec. 4.** AS 18.23 is amended by adding a new section to article 4 to read:

5 **Sec. 18.23.410. Availability of visitation policies and procedures.** A health
6 care facility that maintains an Internet website shall make a current version of its
7 visitation policies and procedures available to the public on the facility's Internet
8 website. If the facility does not maintain an Internet website available to the public,
9 the facility shall make its visitation policies and procedures available to the public in
10 printed form and display a notice in a place conspicuous to visitors stating that a copy
11 of the policies and procedures may be requested at any time. In this section, "health
12 care facility" has the meaning given in AS 18.20.640.

13 * **Sec. 5.** AS 47.05.010 is amended to read:

14 **Sec. 47.05.010. Duties of Department of Health.** The Department of Health
15 shall

16 (1) administer adult public assistance, the Alaska temporary assistance
17 program, and all other assistance programs, and receive and spend money made
18 available to it;

19 (2) adopt regulations necessary for the conduct of its business and for
20 carrying out federal and state laws granting adult public assistance, temporary cash
21 assistance, diversion payments, or self-sufficiency services for needy families under
22 the Alaska temporary assistance program, and other assistance;

23 (3) establish minimum standards for personnel employed by the
24 department and adopt necessary regulations to maintain those standards;

25 (4) require those bonds and undertakings from persons employed by it
26 that, in its judgment, are necessary, and pay the premiums on them;

27 (5) cooperate with the federal government in matters of mutual
28 concern pertaining to adult public assistance, the Alaska temporary assistance
29 program, and other forms of public assistance;

30 (6) make the reports, in the form and containing the information, that
31 the federal government from time to time requires;

1 (7) cooperate with the federal government in adopting state plans to
2 make the state eligible for federal matching in appropriate categories of assistance, and
3 in all matters of mutual concern, including adoption of the methods of administration
4 that are found by the federal government to be necessary for the efficient operation of
5 welfare programs;

6 (8) adopt regulations, not inconsistent with law, defining need,
7 prescribing the conditions of eligibility for assistance, and establishing standards for
8 determining the amount of assistance that an eligible person is entitled to receive; the
9 amount of the assistance is sufficient when, added to all other income and resources
10 available to an individual, it provides the individual with a reasonable subsistence
11 compatible with health and well-being; an individual who meets the requirements for
12 eligibility for assistance shall be granted the assistance promptly upon application for
13 it;

14 (9) grant to a person claiming or receiving assistance and who is
15 aggrieved because of the department's action or failure to act, reasonable notice and an
16 opportunity for a fair hearing by the office of administrative hearings (AS 44.64.010),
17 and the department shall adopt regulations relative to this;

18 (10) enter into reciprocal agreements with other states relative to
19 public assistance that are considered advisable;

20 (11) establish the requirements of residence for public assistance that
21 are considered advisable, subject to the limitations of other laws of the state, or law or
22 regulation imposed as conditions for federal financial participation;

23 (12) establish the divisions and local offices that are considered
24 necessary or expedient to carry out a duty or authority assigned to it and appoint and
25 employ the assistants and personnel that are necessary to carry on the work of the
26 divisions and offices, and fix the compensation of the assistants or employees, except
27 that a person engaged in business as a retail vendor of general merchandise, or a
28 member of the immediate family of a person who is so engaged, may not serve as an
29 acting, temporary, or permanent local agent of the department, unless the
30 commissioner of health certifies in writing to the governor, with relation to a particular
31 community, that no other qualified person is available in the community to serve as

1 local welfare agent; for the purposes of this paragraph, a "member of the immediate
2 family" includes a spouse, child, parent, brother, sister, parent-in-law, brother-in-law,
3 or sister-in-law;

4 (13) provide education and health-related services and referrals
5 designed to reduce the number of out-of-wedlock pregnancies and the number of
6 induced pregnancy terminations in the state;

7 (14) investigate reports of abuse, neglect, or misappropriation of
8 property by certified nurse aides in facilities licensed by the department under
9 AS 47.32;

10 (15) establish state policy relating to and administer federal programs
11 subject to state control as provided under 42 U.S.C. 3001 - 3058ee (Older Americans
12 Act of 1965), as amended, and related federal regulations;

13 (16) administer the older Alaskans service grants under AS 47.65.010 -
14 47.65.050 and the adult day care and family respite care grants under AS 47.65.100;

15 (17) establish an electronic application process for all assistance
16 programs administered by the department and allow an applicant to submit either a
17 written or an electronic application; the electronic application must inform an
18 applicant that a false statement made on the application will be investigated and is
19 punishable under AS 11.56.210; in this paragraph, "electronic application" means an
20 application for benefits or renewal of benefits, whether the department exclusively
21 administers the benefits or administers the benefits in coordination with another state
22 agency or federal agency, electronically completed and submitted through the
23 department's Internet website;

24 **(18) adopt regulations necessary to carry out AS 18.08.093 and**
25 **AS 18.20.600 - 18.20.640, including a schedule of reasonable penalties for**
26 **violations of AS 18.08.093, AS 18.20.600, and 18.20.605.**