

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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**HOUSE BILL 351
Committee Substitute Favorable 3/30/21
Committee Substitute #2 Favorable 3/31/21
Fourth Edition Engrossed 4/1/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H351-CSBC-44 [v.3]
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Short Title: No Patient Left Alone/Clifford's Law.

(Public)

Sponsors:

Referred to:

March 23, 2021

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING PATIENT VISITATION RIGHTS WILL NOT BE IMPACTED
3 DURING DECLARED DISASTERS AND EMERGENCIES, PROTECTING THE
4 RELIGIOUS RIGHTS OF HOSPITAL PATIENTS BY PRESERVING THEIR RIGHT TO
5 RECEIVE VISITS BY CLERGY MEMBERS DURING HOSPITAL STAYS THAT
6 OCCUR DURING A DECLARED DISASTER OR EMERGENCY, AND DIRECTING
7 THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO IMPOSE A CIVIL
8 PENALTY FOR ANY VIOLATION OF THOSE RIGHTS.

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

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

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

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

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

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

29 Whereas, Clifford Jernigan is a 63-year old male with the mentality of a 3-year old
30 who has been confined to a long-term care facility for the past 53 years; and

31 Whereas, his mother visited him every week for 13 years until her death; and

32 Whereas, his sister, Mary Jernigan, has visited him each week for 40 years; and



Whereas, he has had only one outside visitor, his sister, over the last year during which time he has lost over 25 pounds; and

Whereas, a staff member at the facility told his sister that he seemed to be mourning himself to death; and

Whereas, he is only one of many thousands of residents in nursing homes, combination homes, and hospice facilities who have gravely suffered because of restricted visitation during the COVID-19 pandemic; and

Whereas, the General Assembly finds it is in the best interest of the State and that it is both critical and essential for the well-being of these residents to have a minimal number and frequency of visitors; and

Whereas the General Assembly finds it is in the best interest of patients in hospitals to be freely visited by clergy members; and

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

SECTION 1. Part 2 of Article 5 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-84.05. Patient visitation by clergy, including during declared disasters or emergencies.

Notwithstanding any provision of this Article, Chapter 166A of the General Statutes, or any other provision of law to the contrary, each hospital licensed under this Article shall allow a clergy member to visit any patient admitted to the hospital who requests or consents to be visited by a clergy member during the patient's hospital stay, including a hospital stay that occurs during a declared disaster or emergency. A hospital may require a visiting clergy member to submit to health screenings necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the contrary in this section, a hospital may restrict a visiting clergy member who does not pass a health screening requirement or who has tested positive for an infectious disease. A hospital may require a visiting clergy member to adhere to infection control procedures, including wearing personal protective equipment, as long as the infection control procedures do not interfere with the religious beliefs of the patient or the visiting clergy member."

SECTION 2.(a) Part 2 of Article 5 of Chapter 131E of the General Statutes is amended by adding a new section to read:

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

(a) Notwithstanding any provision of this Article, Chapter 166A of the General Statutes, or any other provision of law to the contrary, each hospital licensed under this Chapter shall permit patients to receive visitors to the fullest extent permitted under any applicable rules, regulations, or guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for Disease Control or any federal law.

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

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

SECTION 2.(b) Part I of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

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

Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the patient visitation rights, facility responsibilities, and civil penalty provisions specified in G.S. 131E-79.3 apply to nursing homes and combination homes licensed under this Part."

SECTION 2.(c) Article 10 of Chapter 131E of the General Statutes is amended by adding a new section to read:

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

Notwithstanding any provision of this Article, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the patient visitation rights, facility responsibilities, and civil penalty provisions specified in G.S. 131E-79.3 apply to hospice care facilities licensed under this Article."

SECTION 2.(d) Part 1 of Article 1 of Chapter 131D of the General Statutes is amended by adding a new section to read:

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

(a) Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, any facility licensed under this Chapter shall allow residents to receive visitors of their choice, except when any of the following have been established by clear and convincing evidence:

(1) Infection control issues are present.

(2) Visitation interferes with the care of other patients.

(3) Visitors engage or have engaged in disruptive, threatening, or violent behavior of any kind.

(b) If a facility is found to have violated the provisions of subsection (a) of this section, the Department shall impose a civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each day the facility was found to have a violation."

SECTION 2.(e) Article 2 of Chapter 122C of the General Statutes is amended by adding a new section to read:

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

Notwithstanding any provision of this Article, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the patient visitation rights, facility responsibilities, and civil penalty provisions specified in G.S. 131E-79.3 apply to all facilities licensed under this Article that provide residential treatment."

SECTION 3. No later than January 1, 2022, the Department of Health and Human Services shall adopt rules to implement the provisions of this act. Those rules shall include a requirement that facilities provide notice of the patient visitation rights in this act to patients, residents, and, when possible, family members of patients and residents. The required notice shall

- 1 also include the contact information for the agency or individuals tasked with investigating
2 violations of the visitation rights described in Sections 1 and 2 of this act.
3 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2022. The
4 remainder of act is effective when it becomes law.