

Senate File 507 - Introduced

SENATE FILE 507

BY CHAPMAN

A BILL FOR

1 An Act relating to long-term care facility and hospital
2 practices including patient visitation and protections, and
3 providing civil penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

LONG-TERM CARE FACILITIES — RESIDENT AND TENANT VISITATION

Section 1. Section 135C.1, Code 2021, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. *“Assisted living program”* means the same as defined in section 231C.2.

NEW SUBSECTION. 3A. *“Continuing care retirement community”* means the same as defined in section 523D.1.

NEW SUBSECTION. 12A. *“Long-term care facility”* or *“facility”* means a nursing facility, an assisted living program, a continuing care retirement community, or a senior adult congregate living facility, or any combination of such facilities, programs, or communities.

NEW SUBSECTION. 13A. *“National public health emergency”* means a public health emergency declared by the secretary of the United States department of health and human services pursuant to section 319 of the federal Public Health Service Act, Pub. L. No. 104-321, 42 U.S.C. §247d.

NEW SUBSECTION. 18A. *“Private pay facility”* means a long-term care facility that only accepts payment from private funding sources.

NEW SUBSECTION. 18B. *“Public health disaster”* means the same as defined in section 135.140.

NEW SUBSECTION. 22A. *“Senior adult congregate living facility”* means the same as defined in section 523D.1.

NEW SUBSECTION. 26. *“Tenant”* includes a tenant of an assisted living program or an independent living tenant of a continuing care retirement community.

Sec. 2. Section 135C.1, subsection 21, Code 2021, is amended to read as follows:

21. *“Resident”* means an individual admitted to a health care facility in the manner prescribed by [section 135C.23](#), and includes a person residing in a nursing facility, a continuing care retirement community, or a senior adult congregate living facility.

1 Sec. 3. NEW SECTION. 135C.24A National public health
2 emergency — public health disaster — visitation restrictions in
3 private pay facilities, communities, and programs.

4 1. During a national public health emergency or a public
5 health disaster, a private pay long-term care facility may, at
6 the discretion of the individual facility, implement in-person,
7 indoor visitation policies for residents and tenants of the
8 long-term care facility that are less restrictive than the
9 policies applicable to long-term care facilities accepting
10 public sources of payment, including those issued by the
11 centers for Medicare and Medicaid services of the United States
12 department of health and human services. If a long-term care
13 facility implements such visitation policies, the long-term
14 care facility shall post the policies in a conspicuous place on
15 the premises.

16 2. A facility establishing visitation policies under this
17 section shall provide the facility's visitation policies to all
18 potential or current residents or tenants and to any individual
19 the potential or current resident or tenant designates to
20 receive information and disclosures relating to the potential
21 or current resident's or tenant's care, upon inquiry regarding
22 potential admission to the facility, upon the resident or
23 tenant's admission to the facility, at any time the policies
24 are amended following the resident's or tenant's admission, and
25 upon request of any of these parties.

26 3. Failure to facilitate visitation as provided in this
27 section is prohibited without an adequate and substantiated
28 reason related to clinical necessity or resident safety.

29

DIVISION II

30

HOSPITALS — PATIENT VISITATION AND PROTECTIONS

31 Sec. 4. Section 135B.1, Code 2021, is amended by adding the
32 following new subsections:

33 NEW SUBSECTION. 1A. "*End-of-life status*" means a patient
34 with a terminal condition or dementia-related disorder that has
35 become advanced, progressive, or incurable or a patient in the

1 active stages of dying, probably within thirty days.

2 NEW SUBSECTION. 3A. "*National public health emergency*"
3 means a public health emergency declared by the secretary of
4 the United States department of health and human services
5 pursuant to section 319 of the federal Public Health Service
6 Act, Pub. L. No. 104-321, 42 U.S.C. §247d.

7 NEW SUBSECTION. 5. "*Public health disaster*" means the same
8 as defined in section 135.140.

9 Sec. 5. NEW SECTION. 135B.36 **Patient visitation — national**
10 **public health emergency or public health disaster — personal**
11 **protective equipment stockpile for patient visitors.**

12 1. During a national public health emergency or a public
13 health disaster, all of the following shall apply to a licensed
14 hospital:

15 a. The hospital shall permit a patient admitted to the
16 hospital visitation with at least two visitors who are related
17 to the patient by consanguinity or affinity during at least
18 four days in any Sunday through Saturday period for no less
19 than five hours daily. Any visitation and the four days in any
20 Sunday through Saturday period during which such visitation is
21 scheduled shall be subject to the consent of the patient and at
22 the discretion of the visitors.

23 b. Notwithstanding paragraph "a", if a hospital's personal
24 protective equipment stockpile for patient visitors is
25 sufficient to provide personal protective equipment for
26 all patient visitors when the hospital is at full capacity
27 including the provision of personal protective equipment for up
28 to two daily visitors per patient, the hospital shall permit
29 visitation with at least two visitors who are related to the
30 patient by consanguinity or affinity during all seven days in
31 any Sunday through Saturday period for no less than five hours
32 daily. Any visitation shall be subject to the consent of the
33 patient.

34 2. Notwithstanding any provision of law to the contrary,
35 and whether or not a national public health emergency or public

1 health disaster exists, if a patient admitted to the hospital
2 is considered by the hospital to have end-of-life status, is
3 a minor as described in section 599.1, or has a disability
4 including but not limited to a physical, intellectual, or
5 cognitive disability, a communication barrier or behavioral
6 concern, or requires assistance due to the specifics of the
7 person's disability, the hospital shall permit visitation with
8 individuals living in the same residence as the patient and
9 visitation with at least two individuals living in residences
10 other than the residence of the patient.

11 3. Nothing in this section shall be interpreted to require a
12 hospital to alter historically established visitation policies
13 unrelated to a national public health emergency or public
14 health disaster.

15 4. A licensed hospital shall maintain an onsite personal
16 protective equipment stockpile for patient visitors and shall
17 designate a coordinator to evaluate and maintain the stockpile.
18 The stockpile shall comply with all of the following:

19 a. When a national public health emergency or a public
20 health disaster is not in place, all of the following shall
21 apply to the personal protective equipment stockpile for
22 patient visitors:

23 (1) The stockpile shall include a sufficient supply
24 to provide enough personal protective equipment for up to
25 twenty-one visitors per patient during the patient's inpatient
26 stay and during which time the hospital is at full capacity.

27 (2) The hospital may count up to three-quarters of the
28 personal protective equipment in the stockpile toward the
29 hospital's required emergency personal protective equipment
30 stockpile for hospital personnel required under county,
31 state, or federal law, at the discretion of the hospital or as
32 required or permitted by law or the county, state, or federal
33 regulatory authority.

34 (3) The hospital shall routinely monitor the stockpile to
35 ensure that the personal protective equipment in the stockpile

1 is used prior to the expiration date. Hospitals are encouraged
2 to use the personal protective equipment in the stockpile at
3 least one year prior to the expiration date.

4 (4) At any time the remaining stockpile constitutes
5 three-quarters of the maximum required amount, the hospital
6 shall make every reasonable effort to purchase and acquire
7 the personal protective equipment necessary to stockpile the
8 maximum amount of personal protective equipment required. At
9 no point shall the stockpile be reduced to one-half of the
10 maximum amount required.

11 (5) Any unforeseen shortages or difficulties in obtaining
12 the amount of personal protective equipment required under this
13 paragraph shall not constitute a violation of this paragraph.

14 *b.* During a national public health emergency or a public
15 health disaster, the stockpile shall only be used for patient
16 visitors unless, through reasonable efforts, the hospital is
17 unable to secure and make available a sufficient amount of
18 personal protective equipment to hospital personnel.

19 **Sec. 6. NEW SECTION. 135B.37 Department inspection for**
20 **compliance — filing of complaints — civil penalties — civil**
21 **cause of action.**

22 1. The department shall ensure compliance with this
23 subchapter by inspecting each licensed hospital at least once
24 every two years. The inspection under this section may be
25 conducted concurrently with any other scheduled or unscheduled
26 inspection during the required time frame.

27 2. The department shall provide a process for a person
28 to file a complaint electronically, in person, or by mail,
29 alleging a violation of this subchapter. The complaint
30 shall state in a reasonably specific manner the basis of the
31 complaint, shall include a statement of the nature of the
32 complaint, and shall be delivered to the hospital involved.
33 The name of the person who files a complaint with the
34 department shall be kept confidential and shall not be subject
35 to discovery, subpoena, or other means of legal compulsion for

1 its release to another person other than departmental employees
2 involved in the investigation of the complaint.

3 3. *a.* A hospital that violates a provision of this
4 subchapter by failing to maintain the required levels of
5 personal protective equipment in the hospital's onsite personal
6 protective equipment stockpile for patient visitors is subject
7 to all of the following:

8 (1) For an initial violation, a warning issued by the
9 department.

10 (2) For a second violation, a civil penalty of one thousand
11 dollars.

12 (3) For a third violation, a civil penalty of two thousand
13 dollars.

14 (4) For a fourth or subsequent violation, an additional
15 civil penalty of one thousand dollars per subsequent violation.

16 *b.* The computation of violations for a hospital shall be
17 cumulative.

18 *c.* A hospital that violates a provision of this subchapter
19 by failing to comply with the visitation requirements is
20 subject to all of the following:

21 (1) For an initial violation, a civil penalty of one
22 thousand dollars.

23 (2) For a second violation, a civil penalty of two thousand
24 dollars.

25 (3) For a third or subsequent violation, an additional civil
26 penalty of one thousand dollars per subsequent violation.

27 *d.* The computation of violations for a hospital shall be
28 cumulative.

29 4. This subchapter shall not be construed to prevent a
30 person from bringing a civil cause of action for a hospital's
31 failure to comply with this subchapter based on any right the
32 person may assert under statute or common law.

33 DIVISION III

34 CODE EDITOR DIRECTIVE

35 Sec. 7. CODE EDITOR DIRECTIVE. The Code editor may

1 designate sections 135B.36 and 135B.37, as enacted in this Act,
2 as a new subchapter within chapter 135B, entitled "HOSPITAL
3 VISITATION AND PATIENT PROTECTIONS".

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to long-term care facility and hospital
8 practices, including those related to patient visitation and
9 protections. The bill is organized into divisions.

10 Division I relates to resident and tenant visitation
11 policies in long-term care facilities. The division provides
12 definitions including those for "long-term care facility",
13 "national public health emergency", "private pay facility", and
14 "public health disaster" for the purposes of the division.

15 The division provides that during a national public health
16 emergency (NPHE) or a public health disaster (PHD), a private
17 pay long-term care facility may, at the discretion of the
18 individual facility, implement in-person, indoor visitation
19 policies for residents and tenants that are less restrictive
20 than the policies applicable to long-term care facilities
21 accepting public sources of payment. If such visitation
22 policies are implemented, the long-term care facility shall
23 post the policies in a conspicuous place on the premises. The
24 division also requires the long-term care facility to provide
25 the facility's visitation policies to prospective and current
26 residents and tenants and any individual the potential or
27 current resident or tenant designates to receive information
28 and disclosures relating to the potential or current resident's
29 or tenant's care, at specific times.

30 Failure to facilitate visitation as provided in the division
31 is prohibited without an adequate and substantiated reason
32 related to clinical necessity or resident safety.

33 Division II relates to hospital practices regarding patient
34 visitation and protections. The division provides that during
35 a NPHE or PHD, a licensed hospital shall permit a patient

1 admitted to the hospital to have visitation with at least
2 two visitors who are related to the patient by consanguinity
3 or affinity during at least four days in any Sunday through
4 Saturday period for no less than five hours daily. However,
5 if during the NPHE or PHD, the hospital's personal protective
6 equipment (PPE) stockpile for patient visitors is sufficient
7 to provide PPE for all patient visitors when the hospital is
8 at full capacity including the provision of PPE for up to
9 two daily visitors per patient, the hospital shall permit
10 visitation with at least two visitors who are related to the
11 patient by consanguinity or affinity during all seven days in
12 any Sunday through Saturday period for no less than five hours
13 daily. In all cases, any visitation shall be subject to the
14 consent of the patient.

15 The division provides that notwithstanding any provision
16 of law to the contrary, whether or not during a NPHE or
17 PHD, if a patient admitted to the hospital has end-of-life
18 status, is a minor, or has a disability including but not
19 limited to a physical, intellectual, or cognitive disability,
20 a communication barrier or behavioral concern, or requires
21 assistance due to the specifics of the person's disability,
22 the hospital shall permit visitation with individuals residing
23 in the same residence as the patient and at least two visitors
24 living in residences other than the patient's residence.

25 Nothing in the division is to be interpreted to require a
26 hospital to alter historically established visitation policies
27 unrelated to a NPHE or PHD.

28 The division requires each hospital to maintain an onsite
29 personal protective equipment stockpile for patient visitors
30 and to designate a coordinator to evaluate and maintain the
31 stockpile. When a NPHE or PHD is not in place, the stockpile
32 shall include a sufficient supply to provide enough PPE for
33 up to 21 visitors per patient during the patient's inpatient
34 stay during which time the hospital is at full capacity; the
35 hospital may count up to three-quarters of the PPE in the

1 personal protective equipment stockpile for patient visitors
2 toward the hospital's required hospital emergency personal
3 protective equipment stockpile for hospital personnel required
4 under county, state, or federal law, at the discretion
5 of the hospital or as required or permitted by law or the
6 county, state, or federal regulatory authority; the hospital
7 shall routinely monitor the stockpile to ensure that the
8 PPE stockpiled is used prior to its expiration date and is
9 encouraged to use the PPE stockpiled at least one year prior
10 to its expiration date; at any time the remaining PPE in the
11 stockpile constitutes three-quarters of the maximum required
12 amount, the hospital shall make every reasonable effort
13 to purchase and acquire the PPE necessary to stockpile the
14 maximum required amount of PPE; at no point shall the stockpile
15 be reduced to one-half of the maximum required amount; and
16 any unforeseen shortages or difficulties in obtaining the
17 amount of PPE required does not constitute a violation. The
18 division also provides that during a NPHE or PHD, the personal
19 protective equipment stockpile for patient visitors shall
20 only be used for patient visitors, unless, through reasonable
21 efforts, the hospital is unable to secure and make available to
22 hospital personnel a sufficient amount of PPE.

23 The department of inspections and appeals (DIA) shall ensure
24 compliance with the division by inspecting each licensed
25 hospital at least once every two years. The inspection
26 may be conducted concurrently with any other scheduled or
27 unscheduled inspection during the required time frame. DIA
28 shall also provide a process for a person to file a complaint
29 electronically, in person, or by mail, alleging a violation of
30 the division.

31 A hospital that violates a provision of the division
32 by failing to maintain the required levels of PPE in the
33 hospital's onsite personal protective equipment stockpile for
34 patient visitors or by failing to comply with the visitation
35 requirements is subject to civil penalties as specified in the

1 bill. The division is not to be construed to prevent a person
2 from bringing a civil cause of action for a hospital's failure
3 to comply with the division based on any right the person may
4 assert under statute or common law.