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AB-92 Patient visitation. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 92

Introduced by Assembly Member Gallagher

January 06, 2025

An act to amend Section 1261 of the Health and Safety Code, relating to patient visitation.

LEGISLATIVE COUNSEL'S DIGEST

AB 92, as introduced, Gallagher. Patient visitation.

Existing law provides for the licensure and regulation by the State Department of Public Health of health facilities, as defined. Existing law requires a health facility to allow a patient's domestic partner, the children of the patient's domestic partner, and the domestic partner of the patient's parent or child to visit unless no visitors are allowed, the facility reasonably determines that the presence of a particular visitor would endanger the health or safety of a patient, member of the health facility staff, or other visitor to the health facility, or would significantly disrupt the operations of a facility, or the patient has indicated to the health facility staff that the patient does not want this person to visit. A violation of this provision is a misdemeanor.

This bill, Dianne's Law, would require a health facility to allow specified persons to visit, including the patient's children and grandparents. The bill would require the health facility to develop alternate visitation protocols, if circumstances require the health facility to restrict visitor access to the facility due to health or safety concerns, that allow visitation to the greatest extent possible while maintaining patient, visitor, and staff health and safety. Notwithstanding the requirement mentioned above, the bill would prohibit a health facility from prohibiting in-person visitation in end-of-life situations unless the patient has indicated to the health facility staff that the patient does not want this person to visit, as specified, and would authorize a health facility to require visitors to adhere to personal protective equipment and testing protocols not greater than those required of facility staff for the duration of their visit. The bill would also require the facility to provide personal protective equipment and testing resources to each visitor for a patient in an end-of-life situation, to the extent that those resources have been made readily available to the facility by state or local entities for that purpose. By expanding an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known as Dianne's Law.

SEC. 2. The Legislature finds and declares all of the following:

- (a) Prior to the COVID-19 pandemic, there was widespread consensus and acknowledgment of the benefits and value of hospital visitation and the crucial role visitation plays in patient recovery, comfort, and healing.
- (b) Flexible intensive care unit visiting hours have been shown to reduce patient anxiety and delirium.
- (c) Visitors and care partners play a vital role in patient care, having crucial knowledge of patient health history, assisting with patient decisionmaking, and helping provide discharge care and planning.
- (d) Open and flexible visitation policies have multiple benefits and improve the patient and family experience, reduce patient stress and anxiety, and even reduce cardiovascular complications.
- (e) During the COVID-19 pandemic, many families were unable to be physically present with their loved ones while they were in a hospital, long-term care facility, or residential treatment setting.
- (f) Due to restrictions on visitation, many died in isolation and family members were unable to say their final goodbyes.
- (g) The Code of Federal Regulations recognizes the vital role of visitation by codifying visitation rights.
- (h) Federal regulations require hospitals to provide written policies and procedures regarding visitation rights, and any restriction on visitation must be clinically justified.
- (i) It is the intent of the Legislature to protect patient visitation rights and to prevent unnecessary restrictions on visitation.

SEC. 3. Section 1261 of the Health and Safety Code is amended to read:

1261. (a) A health facility shall allow a patient's *spouse or* domestic partner, the *patient's children, the patient's parents, the patient's grandchildren, the patient's grandparents, the* children of the patient's *spouse or* domestic partner, and the *spouse or* domestic partner of the patient's parent or child to visit, unless ~~one~~ *either* of the following is met:

~~(1) No visitors are allowed.~~

~~(2)~~

(1) (A) The facility reasonably determines that the presence of a particular visitor would endanger the health or safety of the visitor, a patient, member of the health facility staff, or other visitor to the health facility, or would significantly disrupt the operations of a facility.

(B) If circumstances require the health facility to restrict visitor access to the facility due to health or safety concerns, the health facility shall develop alternate visitation protocols that allow visitation to the greatest extent possible while maintaining patient, visitor, and staff health and safety.

~~(3)~~

(2) The patient has indicated to the health facility staff that the patient does not want this person to visit.

(b) (1) Notwithstanding paragraph (1) of subdivision (a), and in accordance with subdivision (c), a health facility shall not prohibit in-person visitation in end-of-life situations unless the patient has indicated to the health facility staff that the patient does not want this person to visit.

(2) (A) This subdivision does not require a health facility to permit a visitor who is violent or potentially violent to enter the facility or visit a patient.

(B) It is the intent of the Legislature that this subdivision ensures liberal visitation rights for patients in end-of-life situations while at the same time recognizing hospitals' obligations to provide a safe environment for patients, staff, and visitors.

(3) For purposes of this subdivision, a health facility may require visitors to adhere to personal protective equipment and testing protocols not greater than those required of facility staff for the duration of their visit. The facility shall provide personal protective equipment and testing resources to each visitor, to the extent that those resources have been made readily available to the facility by state or local entities for this purpose. The provision of personal protective equipment and testing resources to

visitors is not intended to inhibit access to emergency supplies for staff. Visitors may use their own supplies so long as they meet or exceed the minimum standards required by the facility for its own staff.

~~(b)~~

(c) (1) This section ~~may not be construed to~~ does not prohibit a health facility from otherwise establishing reasonable restrictions upon visitation, ~~including~~ including, but not limited to, restrictions upon the hours of ~~visitation~~ visitation, age of visitors, supervision of minor visitors, and number of visitors.

(2) Infants under one year of age shall not be counted against the total number of visitors if a facility imposes a restriction on the number of visitors allowed at the same time.

~~(e)~~

(d) For purposes of this section, "domestic partner" has the same meaning as that term is used in Section 297 of the Family Code.

(e) This section does not create any new civil or criminal liability, including, but not limited to, liability for any illness, infection, or injury experienced by a patient or visitor on the part of a facility that complies with its requirements.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.