Parental Consent for Minor Health Care; No Patient Left Alone Act; Rural Emergency Hospital Licensure; Authorized Activities of Emergency Medical Responders; House Sub. for SB 287

House Sub. for SB 287 requires parental consent to health care services for a minor child provided in a school facility, establishes the No Patient Left Alone Act (Act), expands the eligibility of facilities regarding the licensure of rural emergency hospitals (REHs), and amends law concerning emergency medical services (EMS) to add provisions allowing distribution of nonprescription, over-the-counter (OTC) medications, as approved by the EMS medical director, to the list of interventions that emergency medical responders may provide.

Parental Consent for Minor Health Care

Definitions

The bill defines the following terms:

- "Appropriate licensing agency" means the agency that issues the license, certification, or registration to the health care provider;
- "Behavioral health crisis" means behavioral and conduct issues that impact the safety or health of a juvenile, members of the juvenile's household, or family or members of the community, including, but not limited to, non-life-threatening mental health and substance abuse concerns;
- "Consent" means assent in fact, whether expressed or apparent;
- "Drug" means articles, as defined in the Pharmacy Act (KSA 65-1626), that are:
  - Recognized in the official U.S. Pharmacopeia, or other such official compendiums of the United States, or official national formulary, or any supplement to any of them;
  - Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals;
  - Other than food, intended to affect the structure or any function of the body of human or other animals; and
  - Intended for use as a component of any articles specified previously; but does not include devices or their components, parts, or accessories, except that the term "drug" does not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with statutes regarding livestock and domestic animals prior to their repeal;

- “Healthcare provider” means a person who is licensed by or holds a temporary permit to practice that is issued by the State Board of Healing Arts, the Board of Nursing, or the Behavioral Sciences Regulatory Board;

- “Minor” means an individual under 18 years of age;

- “Parent,” as defined in KSA 38-141, which includes the following: a natural parent, an adoptive parent, a stepparent, or a guardian or conservator of a child who is liable by law to maintain, care for, or support the child; and

- “School facility” means any building or structure owned, operated, or maintained by the board of education of a public school or by the governing body of an accredited nonpublic school if such facility is accessible to students.

Health Care Prohibitions at a School Facility

Unless the health care provider has the consent of a minor’s parent, the bill prohibits a health care provider at a school facility from the following actions:

- Prescribing, dispensing, or administering any prescription or nonprescription drug;

- Administering a diagnostic test with the minor’s bodily fluid; or

- Conducting ongoing behavioral health treatment.

A health care provider who violates these provisions will be subject to professional discipline from the health care provider’s appropriate licensing agency.

Exceptions

The bill will not prevent a health care provider at a school facility from the following actions:

- Administering a non-academic test, questionnaire, survey, or examination pursuant to KSA 72-6316;

- Administering a suicide risk assessment or screening tool for suicide risk, pursuant to KSA 72-6316(f), or conducting a behavioral health assessment or intervention for a minor experiencing a behavioral health crisis;

- Conducting a school-based screening required by law; or

- Providing education to a minor.

Consent Requirements Not Changed

The bill clarifies that this bill would not repeal nor change any consent requirements in continuing law provided in the following statutes:

KSA 38-122. Consent by a parent for surgery and other procedures on a child;

KSA 38-123. Consent for medical care of an unmarried pregnant minor;

KSA 38-123a. Donation of blood by persons over 16; compensation;

KSA 38-137. Immunization of minor children; written delegation of consent by parent; consent for immunization by person other than parent; when;

KSA 38-2217. Health services (Kansas Code for Care of Children);

KSA 65-2891. Emergency care by health care providers; liability; standards of care applicable; definition of health care provider;

KSA 65-2892. Examination and treatment of persons under 18 for venereal disease; liability; and

KSA 65-2892a. Examination and treatment of minors for drug abuse, misuse, or addiction; liability.

No Patient Left Alone Act

Definitions

The bill defines terms, including:

- "Essential caregiver," to mean an individual designated by the patient who meets an essential need of the patient by assisting with the tasks of daily living or providing important emotional, social, or psychological support;

- "Immediate family member," to mean father, mother, stepparent, child, grandchild, stepchild, sibling, spouse, or grandparent of the patient;

- "Patient," to mean an individual who is receiving care at a patient care facility; and

- "Patient care facility," to mean any adult care home, including any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home, adult day care facility, hospital, ambulatory surgical

center or recuperation center, and hospice facility certified to participate in the Medicare program that provides service only to hospice patients.

Patient Visitation Requirements

The bill prohibits a patient care facility, when providing end-of-life care, to take action to prevent a patient from receiving in-person visitation from any person designated by the patient, if the patient has the capacity to make such designation. If the patient does not have the capacity for such designation, the patient's agent for health care decisions established by a durable power of attorney would be allowed to designate visitors. Visitors could include, but would not be limited to:

- An immediate family member, domestic partner, or significant other;
- The agent for health care decisions established by a durable power of attorney for health care decisions;
- An essential caregiver; or
- A minister, priest, rabbi, or clergyperson of any religious denomination or sect to which the patient is an adherent.

The bill prohibits patient care facilities from prohibiting a patient from receiving in-person visitation from one or more individuals at a time. The bill also establishes that a patient may refuse in-person visitation or revoke previously granted in-person visitation from any person at any time.

Patient Visitation Policies and Procedures

The bill provides that patient care facilities may establish visitation policies by September 1, 2024, including, but not limited to, infection control protocols and education for visitors, a set schedule of dates and times when visitation is allowed, allowable visit length, and limits on number of visitors.

The bill also provides that visitation policies and procedures must allow in-person visitations, unless the patient objects, if the patient is:

- Terminally ill or receiving end-of-life care;
- Making one or more major medical decisions;
- Experiencing emotional distress or grieving the recent loss of a friend or family member;
- Experiencing functional, cognitive, or nutritional decline;

- Struggling with the change in environment at the patient care facility after having previously lived with such patient's immediate family member;
- Admitted to a medical care facility for childbirth, including care related to a miscarriage or stillbirth; or
- Under 18 years of age.

The bill requires visitation policies and procedures to be provided to the patient care facility's licensing agency at the time of initial licensure, renewal, or at any time upon request and be easily accessible from the home page of the patient care facility's website.

The bill specifies that visitation policies and procedures cannot contain more stringent infection control protocols for visitors than for employees of the patient care facility who are providing direct care to patients.

The bill establishes that a patient care facility may:

- Adopt visitation policies and procedures that are more stringent for intensive or critical care units;
- Modify visitation based on a patient's condition or need for rest;
- Require a visitor to agree in writing to follow the facility's policies and procedures;
- Temporarily suspend a visitor's in-person visitation if such visitor violates the facility's policies and procedures;
- Revoke a visitor's in-person visitation if such visitor repeatedly violates the facility's policies and procedures or displays any violent or aggressive behavior; or
- Require a visitor to adhere to infection control procedures, including wearing personal protective equipment.

The bill also requires the Department of Health and Environment to publish an explanation of visitation requirements and a link for individuals to report complaints alleging violations by a patient care facility on its website.

Civil Liability Immunity; Federal Program Participation

The bill provides civil liability immunity for damages to the patient care facility taken in compliance with these requirements except in cases of gross negligence or willful, wanton, or reckless conduct.

The bill will not supersede any federal laws, rules, or regulations regarding patient care facilities or prohibit a patient care facility from taking actions necessary, including those based on guidance from the Centers for Medicare and Medicaid Services, to ensure eligibility with federal programs or financial participation and reimbursement for services provided in the patient care facility.

Rural Emergency Hospital Licensure

The bill expands eligibility for REH licensure to facilities that were at any point during the period between January 1, 2015, and December 26, 2020, one of the following types of facilities:

- Licensed critical access hospital;
- General hospital with no more than 50 licensed beds located in a county in a rural area as defined in Section 1886(d)(2)(D) of the federal Social Security Act;
- General hospital with no more than 50 licensed beds that is deemed as being located in a rural area pursuant to Section 1886(d)(8)(E) of the federal Social Security Act; or
- A department of a provider or a provider-based entity.

The bill defines "provider-based entity" as a provider of health care services or a rural health clinic that is either created by, or acquired by, a main provider for the purpose of furnishing health care services of a different type from those of the main provider under the ownership and administrative and financial control of the main provider (42 CFR § 413.65).

Continuing law provides for a licensed general hospital or critical access hospital that applies for and receives licensure as an REH and elects to operate as an REH to retain its original license as a general hospital or critical access hospital. The bill expands this provision to cover provider-based entities or provider departments.

Effective Date

The bill requires, when the Rural Emergency Hospital Adjustment Act (S. 3394, 118th Congress (2023)) is enacted into law, the Attorney General to certify its passage to the Secretary of State. Upon receipt of the certification, the Secretary of State will be required to publish the certification in the *Kansas Register*.

Authorized Activities of Emergency Medical Responders

Distribution of Emergency Opioid Antagonists

The bill provides for first responders, scientists, or technicians operating under a first responder agency or school nurse to distribute emergency opioid antagonists (*e.g.*, naloxone,

also known as Narcan) as clinically indicated, provided that all personnel with access to the emergency opioid antagonists receive training as outlined in statute, including training on standards and procedures for distribution.

Over-the-Counter Medications Administered by Emergency Medical Responders

The bill adds provisions allowing the distribution of non-prescription, OTC medications by emergency medical responders, as approved by the EMS medical director.

The EMS medical director will not be authorized to include as approved OTC medications any compound, mixture, or preparation that has a detectable quantity of ephedrine or pseudoephedrine and that is exempt from being reported to the statewide electronic logging system for the sale of methamphetamine precursors.