

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4257**

BY DELEGATES D. JEFFRIES, SUMMERS, ROHRBACH,  
TULLY, G. WARD, BATES, JENNINGS, WORRELL, ROWAN,  
FORSHT, AND MALLOW

[Passed March 10, 2022; in effect from passage.]



1 AN ACT to amend and reenact §16-39-3 and §16-39-8 of the Code of West Virginia, 1931, as  
2 amended, all relating to requiring visitation of a patient in a health care facility; defining  
3 terms; permitting visitation when the patient is stable following a surgical procedure;  
4 permitting visitation of a patient by a member of clergy; and establishing parameters for  
5 clergy visitation.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 39. PATIENT SAFETY ACT.**

**§16-39-3. Definitions.**

1 For purposes of this article, the following words and phrases have the following meanings:

2 “Appropriate authority” means a federal, state, county, or municipal government body,  
3 agency or organization having jurisdiction over criminal law enforcement, regulatory violations,  
4 professional conduct or ethics, or waste or any member, officer, agent, representative, or  
5 supervisory employee thereof;

6 “Clergy” means an ordained clergy, such as a rabbi, priest, Islamic cleric, associate pastor,  
7 licensed minister, or lay minister serving under the direction of the congregation such as the  
8 Roman Catholic Eucharistic ministers;

9 “Commissioner” means the commissioner of the division of health;

10 “Direct patient care” means health care that provides for the physical, diagnostic,  
11 emotional, or rehabilitational needs of a patient or health care that involves examination,  
12 treatment, or preparation for diagnostic tests or procedures.

13 “Discrimination or retaliation” includes any threat, intimidation, discharge, or any adverse  
14 change in a health care worker’s position, location, compensation, benefits, privileges, or terms  
15 or conditions of employment that occurs as a result of a health care worker engaging in any action  
16 protected by this article.

17 “Good faith report” means a report of conduct defined in this article as wrongdoing or  
18 waste that is made without malice or consideration of personal benefit and which the person  
19 making the report has reasonable cause to believe is true.

20 “Health care entity” includes a health care facility, such as a hospital, clinic, nursing facility,  
21 or other provider of health care services.

22 “Health care facility” means:

23 (1) A hospital licensed pursuant to §16-5B-1 *et seq.* of this code;

24 (2) A nursing home licensed pursuant to §16-5C-1 *et seq.* of this code;

25 (3) An assisted living residence licensed pursuant to §16-5D-1 *et seq.* of this code; and

26 (4) Hospice licensed pursuant to §16-5I-1 *et seq.* of this code.

27 “Health care worker” means a person who provides direct patient care to patients of a  
28 health care entity and who is an employee of the health care entity, a subcontractor, or  
29 independent contractor for the health care entity, or an employee of the subcontractor or  
30 independent contractor. The term includes, but is not limited to, a nurse, nurse’s aide, laboratory  
31 technician, physician, intern, resident, physician assistant, physical therapist, or any other person  
32 who provides direct patient care.

33 “Patient” means a person living or receiving services as an inpatient at a healthcare facility.

34 “Public Health State of Emergency” means a federal or state declaration of a state of  
35 emergency arising from or relating to a public health crisis.

36 “Visitor” means any visitor from the patient’s family, or hospice visiting a patient in a  
37 healthcare facility.

38 “Waste” means the conduct, act, or omission by a health care entity that results in  
39 substantial abuse, misuse, destruction, or loss of funds, resources, or property belonging to a  
40 patient, a health care entity, or any federal or state program.

41           “Wrongdoing” means a violation of any law, rule, regulation, or generally recognized  
42 professional or clinical standard that relates to care, services, or conditions and which potentially  
43 endangers one or more patients or workers or the public.

**§16-39-8. Visitation of a patient in a health care facility.**

1           (a) During a declared public health state of emergency for a contagious disease, a health  
2 care facility shall permit visitation of a patient. If the patient’s death is imminent, the health care  
3 facility shall allow visitation upon request at any time and frequency. In all other instances, the  
4 health care facility shall allow visitation once the patient is stable following a surgical procedure  
5 and, not less than once every five days: *Provided*, That visitation permitted by any health care  
6 entity may not be inconsistent with any applicable federal law, rule, policy, or guidance in effect  
7 for the same emergency.

8           (b) A visitor shall comply with the applicable procedures established by the health care  
9 facility.

10           (c) The health care facility may deny a visitor entry to the health care facility, may subject  
11 a visitor to expulsion from the facility, or may permanently revoke visitation rights to a visitor who  
12 does not comply with the applicable procedures established by the health care facility.

13           (d) A healthcare facility is not liable to a person visiting another person, nor to any other  
14 patient or resident of the health care facility, for any civil damages for injury or death resulting  
15 from or related to actual or alleged exposure during, or through the performance of, the visitation  
16 in compliance with this section, unless the health care facility failed to substantially comply with  
17 the applicable health and safety procedures established by the health care facility.

18           (e) Health care facilities shall provide patients adequate and lawful access to clergy so  
19 that patients can practice their religion by receiving clergy visitation at any reasonable time, as  
20 long as the visit does not disrupt clinical care: *Provided*, That if the health care facility limits the  
21 number of people able to visit the patient, the member of the clergy is not to be considered within  
22 that number.

23           (f) Clergy shall comply with the applicable visitation procedures established by the health  
24 care facility.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2022.

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*Governor*