



To: House Health and Human Services Committee

From: Rachelle Colombo; Executive Director

Date: March 5, 2024

Subject: SB 352; relating to visitation policies and rights of patients in medical care facilities

The Kansas Medical Society (KMS) appreciates the opportunity to offer comments on SB 352 which mandates the establishment of certain medical care facility patient visitation policies, and enumerates the rights of patients in such facilities, and also creates a civil cause of action for violation of either by the facility.

This legislation is similar to HB 2548 considered and passed by this committee, but with a couple important differences. SB 352 creates new law that lists several patient rights that medical care facilities must protect and promote, and it creates a new cause of action that a patient or the patient's representative could bring against the hospital or other medical care facility for violations of the patient rights listed, as well as a cause of action for violating the visitation policy provisions.

KMS supports efforts to ensure that medical care facilities have reasonable visitation policies in place that respect patient preferences regarding visitors, consistent with safety considerations for all patients, visitors, facility providers and staff, as well as being consistent with applicable law and regulations. Much of section 1 of the bill, which deals with such patient visitation policies, could be supportable. However, we do have concerns about the civil cause of action provision, which we fear will inevitably lead to increased litigation. Likewise, we have the same concerns about the civil cause of action provision in section 2 of the bill, which inserts the eight listed patient rights in the statutes. As ethical principles, we of course support patient autonomy, privacy, the ability to be fully informed about care and treatment options, the right to refuse care, and the expectation of confidentiality and access to clinical records regarding care and treatment. However, inserting these rights in statute, and then creating a new civil cause of action is both unnecessary, and will likely just encourage substantially more litigation.

The provisions of concern noted above are no doubt well-intentioned, but unnecessary. Legal remedies for adverse patient outcomes and experiences are already well-established in law. It is incumbent upon both health care providers and the legislature to carefully balance the concern of patients and their families, health care facilities, and practices which ensure the best health outcomes for Kansans. As written, we fear SB 352 will inadvertently erode the trusting relationship between caregivers and patients which is so crucial to successful care outcomes. For these reasons, we cannot support SB 352.