Visitor restrictions beyond the emergency phase: lessons from Japan for proportionality and sunset mechanisms

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ABSTRACT

During the COVID-19 pandemic, hospitals in Japan implemented strict visitation restrictions. While national guidance evolved and COVID-19 was legally reclassified in May 2023, publicly available institutional policies indicate that significant limitations on family presence persisted beyond the acute emergency phase. Building on McTernan's argument that visitor bans infringe freedom of association and require strong justification, this response highlights an additional ethical concern: the absence of explicit sunset mechanisms governing the termination of emergency restrictions. The Japanese case illustrates how precautionary measures introduced under conditions of uncertainty may become embedded in routine care without clearly defined criteria for reassessment and withdrawal. Three ethical issues are particularly salient: proportionality over time, the protection of relational autonomy and patient rights, and equity across institutions. Proportionality is dynamic rather than static; measures justified at one stage of a crisis may become excessive as circumstances change. Without structured review processes, restrictive practices risk persisting by default rather than by renewed justification. Ethical evaluation of visitation policies should therefore address not only their initial justification but also the institutional mechanisms that ensure their timely relaxation. Incorporating explicit sunset provisions would help maintain proportionality and safeguard patient rights in future public-health emergencies.

Emily McTernan's article, 'Against visitor bans: freedom of association, COVID-19 and the hospital ward', provides a compelling normative critique of hospital visitation bans introduced during the COVID-19 pandemic. By grounding the issue in freedom of association and relational autonomy, McTernan argues that restrictions on family presence constitute significant infringements of fundamental rights and therefore require strong justification.[1] This analysis remains persuasive. However, developments in Japan suggest an additional ethical concern: restrictions introduced under emergency uncertainty may persist even after the conditions that justified them have changed. This persistence highlights the need to consider not only the justification for introducing visitation limits but also the ethical requirements for ending them.

During the COVID-19 pandemic, strict visitation limitations were widely adopted across Japanese hospitals and long-term care facilities. National guidance evolved over time, and in May 2023, COVID-19 was reclassified to a lower legal category, signalling a transition away from emergency measures. Despite this shift, publicly available institutional policies suggest that many healthcare facilities continued to impose significant restrictions on visitation beyond this point. These commonly included short visiting windows, limitations to immediate family members and screening criteria. The continuation of such policies after the relaxation of national restrictions suggests that emergency practices may become embedded within routine care.

Publicly available visitation policies from several Japanese hospitals—including a tertiary university hospital, municipal hospitals and large regional institutions—illustrate the structure of these restrictions.[2–5] Institutional guidance in these settings has specified strict time limits, eligibility criteria and screening requirements for visitors even after broader public-health measures were relaxed.[2–5] While individual institutions developed policies independently, similarities across publicly available policies suggest that restrictive practices were widely implemented and, in some cases, remained in place after the most acute phase of the emergency. The persistence of such measures in Japan after national reclassification highlights the absence of clearly defined sunset mechanisms within institutional policy.

These developments raise ethical concerns that extend McTernan's argument. The central issue is not only whether visitor bans were justified at the height of uncertainty but whether healthcare systems incorporated adequate mechanisms for reassessment and termination. Restrictions that significantly limit patient autonomy and family presence require ongoing justification as circumstances change. Without explicit criteria for review and relaxation, measures introduced as temporary precautions risk becoming normalised. The Japanese case illustrates how the absence of structured sunset mechanisms may allow precautionary restrictions to persist by default.

Three ethical considerations are particularly salient.

First, proportionality over time. Even if strict visitation limits were defensible during early phases of uncertainty, their continuation requires renewed justification as risks evolve. Ethical proportionality is dynamic rather than static; measures that were appropriate at one stage of a public-health crisis may become excessive later. Policies that restrict family presence should therefore include clear criteria for reassessment and defined processes for relaxation. Without such mechanisms, institutions may maintain restrictive practices out of caution or administrative inertia rather than demonstrable necessity. The persistence of restrictive policies in Japan after the relaxation of national measures illustrates the importance of explicit sunset provisions within institutional frameworks.

Second, relational autonomy and patient rights. As McTernan argues, hospital patients exist within networks of relationships that are central to their well-being and decision-making.[1] Family members often support communication, assist in interpreting patient preferences and provide emotional stability. Restricting family presence can therefore affect not only social contact but also the quality of care and decision-making processes. Where restrictions continue after emergency conditions have

eased, they risk treating family presence as discretionary rather than integral to ethically adequate care. The Japanese experience suggests that the absence of clear termination criteria may allow such restrictions to persist even when their proportionality is uncertain.

Third, equity and consistency. Variations in visitation policies across institutions raise concerns about fairness. Differences in access conditions, visiting hours and eligibility criteria may result in unequal opportunities for family presence. Ethical frameworks for visitation restrictions should therefore emphasise transparency and consistency, ensuring that any limitations are clearly justified and applied equitably. In the Japanese context, differences across institutions underscore the need for clearer standards governing both the introduction and withdrawal of restrictive measures.

The Japanese experience suggests that ethical analysis of visitor bans must extend beyond their introduction to their termination. Emergency measures often operate under conditions of uncertainty and may be justified as precautionary steps. However, the absence of explicit sunset mechanisms—defined criteria and processes for ending restrictions—creates a risk that temporary measures will persist by default. Incorporating such mechanisms into institutional policy would help ensure that restrictions remain proportionate and time-limited.

Future public-health emergencies will likely prompt renewed consideration of visitation restrictions. Lessons from Japan indicate that institutions should adopt clearer frameworks for introducing, reviewing and ending such measures. These frameworks should include transparent justification, regular reassessment and defined criteria for relaxation. Treating family presence as a core component of care rather than a discretionary privilege would help balance infection control with respect for patient rights.

McTernan's argument that visitor bans require strong justification remains compelling.[1] The persistence of restrictions beyond the emergency phase strengthens this critique by illustrating how measures introduced under uncertainty can become embedded in routine practice. Ethical evaluation of visitation policies should therefore consider not only their initial justification but also the processes by which they are reviewed and withdrawn. Ensuring that restrictions remain proportionate over time will be essential to maintaining both patient rights and public trust in healthcare institutions.

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