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H.B. 65
133rd General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsor: Rep. Carfagna

Effective date: Emergency: June 19, 2020

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UPDATED VERSION*

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SUMMARY

Notice to parents

- Requires a child care provider licensed by the Ohio Department of Job and Family Services (ODJFS) to notify parents if the Department determines that an act or omission of the provider constitutes a serious risk noncompliance.

Swimming classes at private pools

- Allows a resident of a dwelling with a private residential swimming pool to conduct paid, one-on-one, certified swimming classes at the pool without obtaining a public swimming pool license from the board of health or Ohio Department of Health, provided that:
 - The resident is a certified swimming instructor; and
 - There are no more than four people in the pool at the same time during the class.
- Specifies that it is not the General Assembly's intent that any provision related to private swimming lessons in the act be interpreted as limiting or restricting an insurer's ability to:
 - Exclude insurance coverage from any insurance policy;
 - Underwrite any insurance policy; or
 - Create, imply, or otherwise grant insurance coverage not found in a policy of insurance.

* This version updates the effective date.

DETAILED ANALYSIS

Notice to parents

The act requires a child care provider licensed by the Ohio Department of Job and Family Services (ODJFS) to notify the caretaker parent of each child receiving care from the provider of a determination made by ODJFS that an act or omission of the provider constitutes a serious risk noncompliance.¹ Under law unchanged by the act, a serious risk noncompliance is “a licensure or certification rule violation that leads to a great risk of harm to, or death of, a child, and is observable, not inferable.”²

All of the following apply to the required notice:

1. It must be given to caretaker parents not later than 15 business days after ODJFS informs the provider of its determination, or, if the provider requests a review of the determination, within five business days after ODJFS completes its review.
2. It may be furnished in writing or electronically.
3. It must include a statement informing each caretaker parent of ODJFS’s website and the location of more information about the determination.
4. The provider must submit a copy of it to ODJFS.³

Summary suspension

The act specifies that its requirements for parental notice do not apply when ODJFS suspends the provider’s license without a prior hearing, sometimes referred to as a summary suspension.⁴ Law not modified by the act authorizes ODJFS to issue a summary suspension in specified circumstances, including if it determines that the licensed provider created a serious risk to the health or safety of a child receiving care that resulted or could have resulted in a child’s death or injury. When a summary suspension order is issued, the licensee is prohibited from providing child care and must inform the caretaker parent of each child receiving care of the suspension.⁵

Rulemaking

The act requires the ODJFS Director to adopt rules to enforce its provisions. The parental notice requirements begin once the rules are adopted.⁶

¹ R.C. 5104.043(A).

² R.C. 5104.01(PP), not in the act.

³ R.C. 5104.043(B).

⁴ R.C. 5104.043(D).

⁵ R.C. 5104.042(A) and (D), not in the act.

⁶ R.C. 5104.043 (C); Section 4.

Types of child care providers affected

The providers subject to the requirement are: child day-care centers, type A family day-care homes, and licensed type B family day-care homes.⁷ The act does not apply to family day-care homes that do not offer publicly funded child care and, therefore, are not required to be licensed, or to in-home aides, regardless of whether they are certified to provide publicly funded child care.

Swimming classes at private pools

The act allows a resident of a dwelling with a private residential swimming pool to conduct paid, one-on-one, certified swimming classes at the pool without obtaining a public swimming pool license from the board of health or Ohio Department of Health, provided that:

1. The resident is a certified swimming instructor; and
2. No more than four people are in the pool at the same time during the class (for example, the instructor, a student, and the student's parents).

A private residential swimming pool is a pool that is located at a dwelling housing no more than three families.⁸

To be a certified swimming instructor, the resident must be certified as an Infant Swimming Resource (ISR) instructor, a certified American Red Cross swimming instructor, or an instructor certified by a nationally accredited organization that operates in all 50 states.

Certified swimming classes authorized by the act are limited to:

1. ISR classes;
2. American Red Cross swimming classes, swimming lessons, or learn-to-swim classes; and
3. Any other swimming class certified by a nationally accredited organization that operates in all 50 states.⁹

The act retains law that generally specifies that a private residential swimming pool may only be used exclusively by a resident and the resident's nonpaying guests (with the exception of the swimming lessons described above). If the resident charges any fee to guests (other than fees for swimming lessons), the pool's operator must be licensed as a public swimming pool operator.¹⁰

⁷ R.C. 5104.043(A).

⁸ R.C. 3749.01. See R.C. 3749.04, not in the act. In most instances, a board of health issues licenses for public swimming pools. However, in some cases, the Ohio Department of Health issues the licenses. See R.C. 3749.07, not in the act.

⁹ R.C. 3749.01.

¹⁰ R.C. 3749.01(F) and (G). See also R.C. 3749.04, not in the act.

Intent statement

The act specifies that it is not the General Assembly's intent that any provision related to private swimming lessons in the act be interpreted as limiting or restricting an insurer's ability to do any of the following:

1. Exclude insurance coverage from any insurance policy;
2. Underwrite any insurance policy; or
3. Create, imply, or otherwise grant insurance coverage not found in a policy of insurance.¹¹

HISTORY

Action	Date
Introduced	02-12-19
Reported, H. Health	05-15-19
Passed House (89-1)	10-23-19
Reported, S. Health, Human Services & Medicaid	02-14-20
Passed Senate (32-0)	06-10-20
House concurred in Senate amendments (88-5)	06-11-20

20-HB65-UPDATED-133/ks

¹¹ Section 3.