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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

H.B. 770  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for H.B. 770's Fiscal Note](#)

**Version:** As Reported by House Health

**Primary Sponsors:** Reps. Richardson and Fraizer

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## SUMMARY

### Essential caregivers

- Permits essential caregivers to enter long-term care facilities to provide care and support to facility residents during the COVID-19 state of emergency.
- Permits long-term care facility residents to designate up to one essential caregiver and one alternative essential caregiver and provides that the resident, or the resident's representative, has sole discretion to designate the caregiver or revoke the designation.
- Requires long-term care facilities to develop and implement an essential caregiver visitation policy within two weeks of the bill's effective date and requires the policy to meet enumerated criteria.
- Requires the essential caregiver visitation policy to be the least restrictive possible and provide maximum access to residents, unless certain circumstances exist.
- Requires long-term care facilities to educate essential caregivers about the proper use of personal protective equipment and reinforce safe practices.

### Application to H.B. 606

- Clarifies that the long-term care facilities enumerated in the bill are included in the temporary qualified civil immunities established in House Bill 606 of the 133<sup>rd</sup> General Assembly.

### Effective period

- Provides that these provisions are effective until the sooner of December 31, 2021, or the termination of the COVID-19 state of emergency declared by the Governor.
- Declares an emergency.

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## DETAILED ANALYSIS

### Essential caregivers permitted

The bill generally permits essential caregivers to enter long-term care facilities to provide care and support to a facility residents during the COVID-19 state of emergency. A long-term care facility is an institution, residence, or facility that provides, for a period of more than 24 hours, accommodations for three or more unrelated individuals who are dependent on the services of others, including a nursing home, residential care facility (“assisted living”), home for the aging, a veterans’ home, or an intermediate care facility for individuals with intellectual disabilities.<sup>1</sup>

The bill permits a long-term care facility resident to designate one essential caregiver and one alternate essential caregiver to provide care and support to the resident and permits a facility to designate additional caregivers as COVID-19 conditions in the facility and community improve. Essential caregivers must be at least age 18 and must provide care and support to the resident, including meal set up, personal grooming, and companionship.<sup>2</sup> The resident, or the resident’s attorney in fact, legal guardian, or other personal representative has sole discretion to designate, or remove the designation of, an essential caregiver. The resident or resident’s representative must, however, consult with facility staff when designating essential caregivers.<sup>3</sup>

### Essential caregiver visitation policy

The bill requires each long-term care facility to develop and implement an essential caregiver visitation policy within two weeks after the bill’s effective date. The visitation policy must:

- Permit a resident to designate up to one essential caregiver and one alternate essential caregiver to provide care and support to the resident. The policy must permit the resident to designate additional essential caregivers as COVID-19 conditions improve;
- Require the facility to consult with a resident about the resident’s wishes regarding who to designate as the resident’s essential caregiver. The resident and facility can consider individuals who provided regular care and support to the resident before the COVID-19 outbreak, such as family members, legal guardians, friends, outside caregivers, and volunteers;
- Be the least restrictive possible and provide maximum access to the resident (see “**Least restrictive**” below);

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<sup>1</sup> Section 1(A); R.C. 3721.01 and 5124.01, not in the bill.

<sup>2</sup> Section 1(B) and (C).

<sup>3</sup> Section 1(B), (C), and (D).

- Designate a single point of entry where essential caregivers must sign in and be screened for COVID-19 symptoms before entering the facility, the same as facility staff;
- Permit evening and weekend visits to accommodate an essential caregiver's schedule;
- Require an essential caregiver to provide care and support to the resident in the resident's room to limit movement through the facility;
- Permit an essential caregiver to take the resident for a walk outside during the visit. During the walk the caregiver must wear a facial covering, practice social distancing, and use safe practices.
- Reasonably provide hand sanitizing stations and alcohol-based hand sanitizer in accessible locations, in accordance with local health department guidelines; and
- Require essential caregivers to (1) sign in upon arrival to the facility's single entry point and be screened for COVID-19 symptoms, (2) wear all necessary personal protective equipment when in the facility and perform frequent hand hygiene, (3) maintain social distancing of at least six feet with other residents and staff, (4) agree to limit contact with other individuals when outside the facility, and (5) inform the facility if the caregiver develops COVID-19 symptoms within 14 days of a visit with the resident.<sup>4</sup>

### **Least restrictive**

The long-term care facility's essential caregiver visitation policy must be the least restrictive possible and provide maximum access to the resident. The facility can, however, implement more restrictive visitation measures if:

- There is a COVID-19 outbreak in the facility;
- The essential caregiver has been directly exposed to an individual who tested positive for COVID-19; or
- The county in which the facility is located is experiencing severe exposure and spread of COVID-19, according to the Ohio Public Health Advisory System (meaning that the county has reached Level 4 and presents as purple on the map displayed on the Department of Health's website).<sup>5</sup>

### **Essential caregiver education**

Long-term care facilities must educate essential caregivers about the proper use of personal protective equipment and reinforce safe practices. The facility can use posters that demonstrate key instructions for the use of the personal protective equipment.<sup>6</sup>

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<sup>4</sup> Section 1(E).

<sup>5</sup> Section 1(F).

<sup>6</sup> Section 1(G).

## Application to House Bill 606

The bill clarifies that a long-term care facility is a “facility” for purposes of the temporary qualified civil immunity granted under House Bill 606 of the 133<sup>rd</sup> General Assembly to health care providers (including facilities) rendering health care or emergency medical services as a result of or in response to a disaster or emergency.

The bill also clarifies that a long-term care facility is a “person” for purposes of the temporary qualified civil immunity granted under H.B. 606 from suit against any person for injury, death, or loss to person or property caused by exposure to, or transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2.<sup>7</sup>

### Effective period

The bill is effective until the sooner of December 31, 2021, or the end of the COVID-19 state of emergency declared by the Governor.<sup>8</sup>

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## HISTORY

Action	Date
Introduced	09-30-20
Reported, H. Health	11-19-20

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<sup>7</sup> Section 2.

<sup>8</sup> Section 3.