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Substitute Bill Comparative Synopsis

Sub. H.B. 770

133rd General Assembly

House Aging and Long-Term Care

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Re-Referred by House Rules and Reference Committee)	Latest Version (I_133_3221-8)
Essential caregivers	
<p>Permits essential caregivers to visit a long-term care facility to provide care and support to a facility resident (<i>Section 1(B)</i>).</p> <p>Defines “essential caregiver” as an individual designated by a long-term care facility resident to provide care and support to the resident (<i>Section 1(A)(1)</i>).</p>	<p>Requires a long-term care facility to permit an essential caregiver to enter the facility to provide in-person visitation to a resident in compassionate care situations, which does not refer exclusively to end of life situations (<i>Section 1(B)(1)</i>).</p> <p>Defines “essential caregiver” as an individual who provides in-person visitation to a facility resident in compassionate care situations (<i>Section 1(A)(1)</i>).</p>

Previous Version (As Re-Referred by House Rules and Reference Committee)	Latest Version (I_133_3221-8)
<p>Defines “long-term care facility” as (1) an institution, residence, or facility that provides, for a period of more than 24 hours, whether for payment or not, accommodations for three or more unrelated individuals who are dependent upon the services of others (including a nursing home, residential care facility, home for the aging, a veterans’ home, or a county home or district home that is or has been licensed as a residential care facility), and (2) an intermediate care facility for individuals with intellectual disabilities (ICF/IID) (<i>Section 1(A)(2); R.C. 3721.01, not in the bill</i>).</p> <p>Requires essential caregivers to be at least age 18 and provide care and support to the resident, including meal set up, personal grooming, and companionship (<i>Section 1(C)</i>).</p>	<p>Also specifies that a long-term care facility does not include any federal facility, including a facility operated by the U.S. Department of Veterans Affairs (<i>Section 1(A)(2)</i>).</p> <p>Similar. Requires essential caregivers to be at least age 18 and provide support to the resident including meal set up and companionship (<i>Section 1(C)</i>).</p>
Compassionate care situations	
<p>No provision.</p>	<p>Specifies that compassionate care situations include the following:</p> <ul style="list-style-type: none"> ▪ The resident was recently admitted to the facility and is struggling with the change in environment and lack of physical family support. ▪ The resident is grieving after a friend or family member has recently passed away. ▪ The resident is experiencing weight loss or dehydration and needs cueing or encouragement when eating or drinking. ▪ The resident is experiencing emotional distress from isolation demonstrated by behavioral changes such as rarely speaking or crying more frequently (<i>Section 1(B)(1)</i>).

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No provision.	<p>Also requires the facility to permit essential caregivers to provide in-person visitation when a resident displays a substantial change of condition indicating that end of life is approaching, including loss of appetite, increased sleeping, delirium, unexplained agitation, mottling of skin, significant decline in cognition, or increased depression accompanying other indications.</p> <p>In such situations, requires the facility to permit at least two visitors per resident for a minimum of two hours, with additional visitors or time as appropriate, and requires the essential caregivers to undergo the facility's essential caregiver screening requirements (<i>Section 1(B)(2)</i>).</p>
No provision.	Requires the facility to use a person-centered approach in working with residents, family members, caregivers, personal representatives, and, as appropriate, the State Long-Term Care Ombudsman Program to identify residents who are in need of compassionate care visits (<i>Section 1(B)(3)</i>).
Essential caregiver designation	
Permits long-term care facility residents to designate one essential caregiver and one alternate essential caregiver, and permits the facility to designate additional essential caregivers or alternate essential caregivers as COVID-19 conditions in the facility and community improve (<i>Section 1(B)</i>).	Instead, requires facilities to permit essential caregivers and permits the resident to designate, at minimum, one alternate essential caregiver who will provide compassionate care visits in the event the essential caregiver is unable to visit (<i>Section 1(E)</i>).
No provision.	Prohibits a resident from changing an essential caregiver designation more than once every 30 days (<i>Section 1(E)</i>).

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CMS guidance	
No provision.	Requires essential caregivers to comply with the facility’s visitor policy, and, if the facility is governed by U.S. Centers for Medicare and Medicaid Services (CMS) regulations, all CMS guidance and regulations (<i>Section 1(D)(1)</i>).
Least restrictive	
Requires a facility’s essential caregiver visitation policy to be the least restrictive possible and provide maximum access to residents, unless: <ul style="list-style-type: none"> ▪ There is a COVID-19 outbreak at the facility; ▪ The essential caregiver has been directly exposed to an individual who tested positive for COVID-19; or ▪ The county is experiencing severe exposure and spread of COVID-19 according to the Ohio Public Health Advisory System (<i>Section 1(F)</i>). 	Similar, but instead of the third bullet point, clarifies that compassionate care visits and essential health care worker visits are exempt from COVID-19 severity restrictions (even if the positivity rate in the county is greater than 10%), but in developing and implementing its essential caregiver visitor protocols, the facility may consider the COVID-19 severity level in the county (<i>Section 1(G)</i>).
Screening requirements	
No provision.	Requires an essential caregiver to do the following screening before entering the facility: <ul style="list-style-type: none"> ▪ Undergo COVID-19 exposure screening and disclose any COVID-19 symptoms, including cough, shortness of breath, or temperature above 100 degrees; ▪ Produce valid federal or state identification and log entry into the facility, limit movement within the facility, and provide and use all appropriate personal protective equipment (<i>Section 1(D)(2)</i>).

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Visitor policy requirements	
<p>Requires long-term care facilities to develop, within two weeks of the section’s effective date, an essential caregiver visitation policy including certain enumerated things. <i>(Section 1(E))</i>.</p>	<p>Same <i>(Section 1(F))</i>.</p>
<p>No provision.</p>	<p>Requires the visitation policy to permit a resident to designate additional essential caregivers as recommended by the long-term care ombudsman, as appropriate <i>(Section 1(F)(2))</i>.</p>
<p>Requires the visitation policy to permit essential caregivers to provide care and support to the resident in the resident’s room <i>(Section 1(E)(7))</i>.</p>	<p>Also permits essential caregivers to visit the resident in a designated visitor space <i>(Section 1(F)(7))</i>.</p>
<p>Requires the visitation policy to permit the essential caregiver to take the resident for a walk outside during the visit, during which the caregiver must wear a facial covering, practice social distancing, and use safe practices during the walk <i>(Section 1(E)(8))</i>.</p>	<p>No provision.</p>
<p>No provision.</p>	<p>Requires the visitation policy to require essential caregivers to comply with the above screening requirements (see “Screening requirements”) <i>(Section 1(F)(10)(f))</i>.</p>
<p>No provision.</p>	<p>Requires the visitation policy to require the facility to communicate to essential caregivers its COVID-19 testing policy for visitors <i>(Section 1(F)(11))</i>.</p>

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Education about personal protective equipment	
<p>Requires the facility to educate essential caregivers about the proper use of personal protective equipment and reinforce safe practices (including by posters) <i>(Section 1(G))</i>.</p> <p>No provision.</p>	<p>Same, but also requires the facility to educate essential caregivers, family members, and other interested persons about the right to contact the State Long-Term Care Ombudsman Program with concerns about access to the facility and its residents (if the facilities are not ICFs/IID) <i>(Section 1(H))</i>.</p> <p>States that the State Long-Term Care Ombudsman Program does not have jurisdiction over long-term care facilities that are ICFs/IID <i>(Section 1(H)(2))</i>.</p>
Health care and other professionals	
<p>No provision.</p> <p>No provision.</p>	<p>Requires long-term care facilities to permit health care workers who are not employees of the facility but provide direct care to facility residents to enter the facility, including hospice care workers; emergency medical services personnel; dialysis technicians; clinical laboratory technicians; general x-ray machine operators, radiographers, radiation therapy technologists, or nuclear medicine technologists; and other health professionals, as well as social workers and clergy members.</p> <p>Specifies that a facility may restrict such individuals from providing services if the individual is subject to a work exclusion due to direct exposure to COVID-19 or shows symptoms of COVID-19 when being screened <i>(Section 1(I))</i>.</p> <p>Provides that the screening requirements do not apply in exigent circumstances, such as to emergency medical personnel, first responders, or other similarly situated individuals, in response to an emergency <i>(Section 1(J))</i>.</p>

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Interaction with federal regulatory guidance	
No provision.	Provides that the above provisions shall not be construed or implemented in such a way as to conflict with federal regulatory guidance regarding long-term care visitation during the COVID-19 outbreak, such as guidance issued by CMS or the Centers for Disease Control and Prevention (<i>Section 1(K)</i>).
Application to H.B. 606	
States that a long-term care facility, as defined in the bill, is a “facility” for purposes of the qualified civil immunity granted to health care providers in Section 1 of H.B. 606 (<i>Section 2</i>).	Same, but also specifically enumerates residential care facilities (<i>Section 2</i>).