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Bill Analysis

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Primary Sponsors: Reps. Boyd and Carruthers

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SUMMARY

- Requires long-term care facilities to establish resident protection advisory boards.
- Requires hospitals to establish patient protection advisory boards.
- Establishes requirements for the use of restraints on residents and patients.
- Requires the Department of Health to establish a process for resident and patient advisory boards to file grievances with the Department and to adopt other rules as necessary to implement the advisory boards.

DETAILED ANALYSIS

Resident and patient protection advisory boards

The bill requires every long-term care facility in Ohio to establish a resident protection advisory board, and every hospital to establish a patient protection advisory board. The advisory boards in both settings function in a similar capacity. Both types of organizations are responsible for establishing their advisory boards within 180 days of the bill's effective date. Long-term care facilities that are not caring for residents when the bill becomes effective, and hospitals that are not treating patients, have 180 days after beginning to serve residents or treat patients to establish an advisory board.¹ For the bill's purposes, a long-term care facility includes (1) nursing homes and (2) nursing facilities or skilled nursing facilities certified by the federal Centers for Medicare and Medicaid Services. It does not include a residential care (assisted living) facility.²

¹ R.C. 3721.27 and 3727.25.

² R.C. 3721.21, not in the bill.

Membership

Each long-term care facility and hospital is responsible for selecting members to serve on their advisory board. Those members must include the following:³

- Three to five individuals with lived experiences as residents or patients or as family members of residents or patients;
- One to three individuals with experience advocating on behalf of residents or patients, which may include individuals employed by the facility or hospital, to investigate or resolve complaints regarding resident or patient care and treatment;
- Two to four professionals with experience providing health care or personal care services directly to residents or patients.

Advisory board responsibilities

Restraint policies

Resident and patient protection advisory boards are responsible for reviewing, revising, and developing policies and procedures governing the restraint of residents or patients at the long-term care facility or hospital.⁴ Current law sets the following standards for the use of restraints on long-term care facility residents only:⁵

- Residents have the right to be free from physical or chemical restraints except to the minimum extent necessary to protect the resident from injury to self, others, or property;
- Restraints may not be used for punishment, isolation, or convenience;
- An attending physician must authorize the use of restraints, and may do so only after conducting an examination of the resident and making an individualized determination regarding the need for restraints;
- The initial use of restraints may not continue for more than 12 hours without the attending physician conducting another examination and issuing an authorization for the use of restraints to continue for up to 30 days;
- The use of restraints may be continued indefinitely, but the resident must be examined by an attending physician at least every 30 days, and the attending physician must issue a written authorization for the continued use of restraints;
- When a resident is restrained, the facility must ensure that resident receives a proper diet.

³ R.C. 3721.27(A) to (C) and 3727.25(A) to (C).

⁴ R.C. 3721.271(A)(1) and (2) and 3727.26(A)(1) and (2).

⁵ R.C. 3721.13, not in the bill.

The bill specifies that a resident protection advisory board must ensure that their long-term care facility's restraint policy adheres to these requirements.⁶ Additionally, restraint policies for both long-term care facilities and hospitals must require that when restraint is used, the level or amount of restraint must be based on and appropriate for the resident or patient's age and medical condition. When a facility or hospital relies on one or more members of a police force to help restrain a resident or patient, each police officer must have completed training in trauma informed care, have completed training by the Ohio Peace Officer Training Academy, and be knowledgeable about best practices for restraint including how the resident or patient's age and medical condition inform best restraint practices.⁷

Other responsibilities

A resident or patient protection advisory board is also responsible for reviewing all other facility or hospital policies and procedures governing resident or patient care and treatment. If necessary, the advisory board may revise policies and procedures.⁸

Long-term care facility and hospital responsibilities

Each long-term care facility and hospital must provide their advisory board with copies of the facility or hospital's policies and procedures governing resident or patient care and treatment, including restraint. When an advisory board develops or revises procedures, the long-term care facility or hospital must adopt them as soon as practicable. After new or revised policies and procedures are adopted, each long-term care facility and hospital must submit copies of the policies and procedures to the Department of Health.⁹

Receiving and filing of grievances

Additionally, each long-term care facility or hospital must designate one or more employees who provide services to residents or patients to accept grievances made by residents, patients, or their family members, and to file grievances with the Department of Health. Alternatively, the facility or hospital may establish an ombudsperson to assist in raising and resolving a grievance. If a resolution cannot be reached, the ombudsperson is responsible for filing a grievance with the Department. The employee or ombudsperson must be able to receive and file grievances 24 hours a day, seven days a week. Grievances may relate to resident or patient care and treatment, including the use of restraints; the failure of a long-term care facility or hospital to adopt policies and procedures established by the advisory board; or the failure of a long-term care facility or hospital to submit policies and procedures to the Department of Health.¹⁰ Residents of long-term care facilities and other people who believe a

⁶ R.C. 3721.271(B)(1).

⁷ R.C. 3721.271(B) and 3727.26(B).

⁸ R.C. 3721.271(A)(3) and 3727.26(A)(3).

⁹ R.C. 3721.271(C) to (E) and 3727.26(C) to (E).

¹⁰ R.C. 3721.272(B) and (C) and 3727.27(B) and (C).

resident's rights have been violated may also continue to file a grievance with the Department using an existing process.¹¹

Each facility or hospital must post a notice informing the public of the grievance process in a conspicuous location. This notice must include the contact information for the employee or ombudsperson designated to receive grievances. The same notice must be included on resident or patient intake forms and made available on the facility or hospital's website.¹²

Department of Health rules

Grievance procedure

The Department of Health is required to create rules establishing a process for resident or patient protection advocacy boards to file grievances with the Department. The rules must include a process for hearing and considering grievances.¹³

Other rules

The bill also requires the Department of Health to adopt other rules as necessary to implement resident and patient protection advisory boards. These rules must include penalties for violating requirements associated with the advisory boards.¹⁴

HISTORY

Action	Date
Introduced	09-08-21

H0409-I-134/ks

¹¹ R.C. 3721.272(E) and 3721.17, not in the bill.

¹² R.C. 3721.272(D) and 3727.27(D).

¹³ R.C. 3721.272(A), 3721.273, 3727.27(A), and 3727.28.

¹⁴ R.C. 3721.273 and 3727.28.