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Office

H.B. 236
(1_135_2570-1)
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 236's Bill Analysis](#)

Version: In House Health Provider Services

Primary Sponsors: Reps. M. Miller and Lear

Local Impact Statement Procedure Required: No

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Highlights

- Government-owned congregate care settings, such as county homes, state veterans' homes, and hospitals, including state psychiatric hospitals, may experience costs to update policies or procedures to ensure patient or resident access to their advocates and to provide the Ohio Department of Health's (ODH) "Never Alone" information sheet.
- ODH will experience minimal costs to develop and periodically update the "Never Alone" information sheet and to post the document on ODH's website. It is possible that ODH would also receive and respond to complaints regarding potential violations of the bill's provisions. Any costs related to these duties would depend on the number of complaints or violations received.

Detailed Analysis

Congregate care settings – patient and resident advocates

The bill requires a congregate care setting to inform a patient or resident that an individual may be designated to serve as an advocate for the patient or resident. The care setting must also provide the patient or resident the opportunity to make a designation. However, certain individuals are ineligible to serve as an advocate, including: (1) those who have been determined to have abused the patient or resident, (2) those who the congregate care setting has determined poses a serious risk to the patient's or resident's physical health, or (3) those who the patient's or resident's guardian has excluded from visiting or communicating with the patient or resident and has submitted the individual's name to the relevant probate court. Congregate care settings are prohibited from denying a patient or resident access to an advocate and prohibiting an advocate from being physically present with a patient or resident during a public health emergency or the period when an order or rule issued by the Ohio Department of

Health (ODH) or a local board of health remains in effect. During other times, the care setting must make every reasonable effort to allow the advocate to be physically present with the patient or resident. However, it does not require a congregate care setting to employ or contract with an individual to serve as an advocate for the care setting's patients or residents. Under the bill, access to an advocate includes access onsite at the care setting itself and offsite through a means of telecommunications (offsite access is required to be provided at no cost to the patient or resident). The bill also grants an advocate the right under certain circumstances to quarantine with the patient at a hospital or health care facility. The bill does not prevent a care setting from establishing a reasonable protocol governing the use of personal protective equipment (PPE) in order to minimize the spread of disease. Such a protocol must not be more restrictive for advocates than for care setting staff. Under the protocol, an advocate is exempt from using PPE if a practitioner's note is presented that documents that such use conflicts with, or is not required because of, the advocate's own physical or mental health condition. Under the bill, a patient, resident, and certain advocates are authorized to commence an action for injunctive relief against a congregate care setting for violating the bill's provisions.

The bill also prohibits a political subdivision, public official, or state agency from issuing an order or rule that would require a care setting to violate the bill's provisions. Additionally, ODH is required to create a "Never Alone" information sheet that describes all of the duties, prohibitions, requirements, and rights established under the bill and requires each congregate care setting to provide each patient or resident with a paper copy at the time of admission. ODH is to periodically review and update the information sheet and make it available on the Department's website.

Fiscal impact

Government-owned congregate care settings, such as county homes, state veterans' homes, and hospitals, including state psychiatric hospitals, may experience costs to update policies or procedures to ensure patient or resident access to their advocates and to provide ODH's "Never Alone" information sheet. LBO assumes that any costs associated with bill's provision allowing advocates to quarantine with a patient would be addressed by each facility's related policy and be the responsibility of the advocate.

ODH will experience minimal costs to develop and periodically update the "Never Alone" information sheet and to post the document on ODH's website. ODH may also experience costs to answer any questions or respond to complaints. It is also possible that local courts will experience costs if there are any cases or actions seeking injunctive relief against a congregate care setting for violating the bill's provisions.

Synopsis of Fiscal Effect Changes

The substitute bill, I_135_2570-1, establishes an additional ground of advocate ineligibility – that the patient's or resident's guardian has excluded the individual from visiting or communicating with the patient or resident and has submitted the individual's name to the relevant probate court. Additionally, the previous substitute bill (I_135_1195-10) generally prohibited a congregate care setting from denying a patient or resident access to an advocate and prohibiting the advocate from being physically present with the patient or resident at all times. Substitute bill I_135_2570-1 limits the "at all times" prohibition to periods when local or state public health orders are in effect or during any public health emergency. However, the care

setting must make every reasonable effort to allow the advocate to be physically present with the patient or resident at the care setting at all other times. There should be no substantial changes to the fiscal impacts described above due to these provisions.

Substitute bill I_135_2570-1 eliminates a provision that authorized a patient, resident, and certain advocates to commence an action for money damages (the substitute bill retains a provision that allows injunctive relief to be sought) for violating the bill's provisions. This elimination would reduce any associated court costs.