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Office

H.B. 236
(1_135_1195-10)
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 those who have been determined to have abused the patient or resident or those who the congregate care setting has determined poses a serious risk to the patient's or resident's physical health. 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, including 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. 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 money damages and 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 brought against a congregate care setting for violating the bill's provisions.

Synopsis of Fiscal Effect Changes

The previous substitute bill, I_135_1195-8, specified that patient or resident access to an advocate includes access offsite through a means of telecommunication and requires it to be provided at no cost to the advocate and patient or resident. The current substitute bill, I_135_1195-10, limits this no cost access to the patient or resident only. Thus, this could result in a reduction in possible telecommunications costs for government-owned congregate care settings.

Substitute bill I_135_1195-10 removes recovery housing and Ohio Mental Health and Addiction Services (OhioMHAS)-licensed residential facilities from the bill's congregate care setting definition, so that the bill does not apply to those facilities. These entities were included under this definition in the previous substitute bill. Thus, any government-owned recovery

housing or OhioMHAS-licensed residential facilities will not realize any costs related to the bill as a result of this removal.

The previous substitute bill provided immunity to a congregate care setting that is a hospital or other health care facility when an outbreak of infectious disease is serious enough to require care setting staff to quarantine and the advocate contracts the disease while quarantining with the patient at the setting. The current substitute bill expands immunity from administrative and civil liability to any congregate care setting where an advocate contracts an infectious disease other than a foodborne disease as a result of serving as an advocate. This could reduce the number of related cases, if any, are brought forward in local courts, as compared to the previous substitute bill.

The current substitute bill also removes a provision that was in I_135_1195-8 that prohibited a political subdivision, public official, or state agency from enforcing, on behalf of the federal government, an order or rule issued by the federal government that would require a congregate setting to violate the bill's provisions.

The current substitute bill also makes other various changes regarding eligible advocates, automatic designation, consent to disclose medical information, exceptions to access to an advocate, and use of personal protective equipment (PPE) that should not have a substantial fiscal impact.