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H.B. 770
(1_133_3221-8)
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 770's Bill Analysis](#)

Version: In House Aging and Long Term Care

Primary Sponsors: Reps. Richardson and Fraizer

Local Impact Statement Procedure Required: Yes

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Highlights

- The Ohio Department of Health (ODH) could realize an increase in costs to ensure that long-term facilities follow implemented policies.
- Counties that operate a county home licensed as a residential care facility by ODH might realize an increase in costs to implement the required visitation policy and inform families of this new policy. Some visits are taking place now, so any potential cost will depend on if and how the bill's requirements differ from current policies.
- The Ohio Department of Veterans Services (ODVS) operates two veterans homes that could realize the same costs as those specified above.

Detailed Analysis

Essential caregivers

The bill permits essential caregivers to enter long-term care facilities to provide in-person visitation to a facility resident in compassionate care situations during the COVID-19 state of emergency. The bill specifies what situations are included as compassionate care situations. The bill declares an emergency, so any fiscal impacts could be immediate. It also 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.

According to the bill, a long-term care facility resident may designate an essential caregiver and, at minimum, one alternate essential caregiver to provide in-person visitation to a resident in compassionate care situations in accordance with the provisions of the bill. Not later than two weeks after the effective date of the bill, each long-term care facility must develop and implement a visitation policy regulating essential caregivers. The bill does specify certain policies,

including the following that must be part of its visitation policy: designate a single point of entry where essential caregivers must sign in and be screened for COVID-19 symptoms before entering the facility; require screening of essential caregivers for COVID-19 symptoms before the caregiver enters the facility, in the same manner as facility staff; and require an essential caregiver to provide support to the resident in the resident's room or designated visitor space and to limit movement throughout the facility. The policy must also require essential caregivers to do certain things, such as to maintain social distancing with other residents and staff and wear all necessary personal protective equipment when in the facility. A long-term care facility is required to educate essential caregivers, family members, and other interested persons, about the right to contact the Office of the State Long-Term Care Ombudsman Program with concerns about access to the facility and its residents (with the exception of intermediate care facilities for individuals with intellectual disabilities, in which the program does not have jurisdiction).

The bill also requires long-term care facilities to permit health care workers to enter the facility who are not employees of the facility but provide direct care to facility residents, including hospice care program workers, emergency medical services personnel, dialysis technicians, etc. The bill also requires clergy and social workers to be permitted to enter. A facility may restrict such an individual from providing services in the facility 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 before entering the facility.

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

Fiscal effect

The Ohio Department of Health (ODH) is responsible for conducting onsite inspections of facilities for compliance with state and federal rules and regulations and to ensure the quality of care and quality of life of the residents. ODH also responds to complaints. As a result, it is possible that ODH could realize an increase in costs to ensure that facilities follow implemented policies and to respond to complaints that may be received.

In addition, some counties operate a county home, which is a facility owned and operated by the county commissioners that provides care to individuals. A county home that is licensed as a residential care facility by ODH would be required to comply with the bill's provisions. According to various newspaper articles, in 2014 there were 33 county homes, of which about half were licensed as residential care facilities. Counties with a licensed county home could experience a cost to establish and implement the required visitation policy, as well as to inform families of this new policy. However, the most recent Director's Order relating to nursing homes and similar facilities does currently allow for some compassionate care visits and outlines the requirements and criteria for these visits.¹ It also allows personnel who are necessary to the operations of the facility, such as emergency health care providers, hospice personnel providing core services, clergy, etc. to enter a facility. It also outlines the requirements and criteria for these visits. Thus, any fiscal impact will depend on if and how the bill's requirements differ from current regulations,

¹ <https://coronavirus.ohio.gov/static/publicorders/Fifth-Amended-Directors-Order-Nursing-Homes.pdf>.

as well as if additional staff time is necessary to ensure compliance. In addition, the Ohio Department of Veterans Services (ODVS) operates two veterans homes – one in Sandusky and one in Georgetown. ODVS could realize these costs as well.

Synopsis of Fiscal Effect Changes

The substitute bill, I_133_3622-8, defines “essential caregiver” as an individual who provides in-person visitation to a long-term care facility resident in compassionate care situations. In comparison to the As Introduced version of the bill, the substitute bill could potentially result in a decrease in the number of essential caregivers since it specifies that visits are for “compassionate care situations.” In addition, the As Introduced version of the bill specified that, among other things, essential or alternate caregivers were required to provide care and support to a resident in the resident’s room and were also permitted to take the resident for a walk outside. The substitute bill modifies this to require that in-person visitation, among other things, be provided in a resident’s room or designated visitor space and removes the provision regarding the walk outside. As a result, if any staff time were required to ensure adherence to infection control procedures, the amount of time dedicated to this could be reduced under the substitute bill. The substitute bill also permits health care workers to enter the facility who are not employees of the facility but provide direct care to facility residents, including hospice care program workers, emergency medical services personnel, dialysis technicians, etc. With regard to health care workers permitted under the substitute bill, it appears that some of these individuals may already be permitted under the most recent Director’s Order relating to nursing homes and similar facilities. Thus, any fiscal impact will depend on if and how the substitute bill’s requirements differ from current regulations. Other changes made by the substitute bill should have no significant impact.