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Substitute Bill Comparative Synopsis

Sub. H.B. 236

135th General Assembly

House Health Provider Services

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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 (I_135_1195-8, As Pending in Committee)	Latest Version (I_135_1195-10)
Eligible advocates	
<p>Defines an advocate as an individual who advocates on behalf of a congregate care setting patient or resident and specifies that such an individual may include any of the following:</p> <ul style="list-style-type: none"> ▪ The patient’s or resident’s spouse, family member, companion, or guardian; ▪ In the case of a minor patient or resident, the minor’s residential parent and legal custodian or the minor’s guardian; 	<p>Maintains this provision, but specifies that an advocate also may include an individual appointed by a court to act as the patient’s or resident’s guardian (<i>R.C. 3792.05(A)</i>).</p>

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<ul style="list-style-type: none"> ▪ An individual designated as an attorney in fact for the patient or resident under a durable power of attorney for health care <i>(R.C. 3792.05(A))</i>. <p>No provision.</p>	<p>Specifies that an individual is ineligible to act as an advocate under either of the following circumstances:</p> <ul style="list-style-type: none"> ▪ There has been an adjudicated finding that the individual abused the patient or resident; ▪ The care setting has determined that the individual poses a serious risk to the patient’s or resident’s physical health <i>(R.C. 3792.05(B))</i>.
<p>Automatic designation – court-appointed guardians</p>	
<p>Requires a congregate care setting to consider the following to be a patient’s or resident’s advocate without the patient or resident having to make the designation:</p> <ul style="list-style-type: none"> ▪ In the case of a minor patient or resident, the minor’s residential parent and legal custodian or the minor’s guardian; ▪ An individual designated as an attorney in fact for the patient or resident under a durable power of attorney for health care <i>(R.C. 3792.05(B))</i>. 	<p>Maintains this provision, but also requires the care setting to consider a patient’s or resident’s court-appointed guardian to be the advocate without the patient or resident having to make that designation <i>(R.C. 3792.05(B))</i>.</p>
<p>Consent to the disclosure of medical information</p>	
<p>Requires a congregate care setting, after an advocate has been designated, to request from the patient or resident consent to disclose the patient’s or resident’s medical information to the advocate <i>(R.C. 3792.05(D))</i>.</p>	<p>Maintains this provision, but, when applicable, requires the care setting to instead request consent from the following individuals: the patient’s or resident’s attorney in fact under a durable power of attorney for health care, the patient’s or resident’s court-appointed guardian, or, in the case of a minor patient or resident, the residential parent and legal custodian or guardian <i>(R.C. 3792.05(D)(1))</i>.</p>

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Access to an advocate – exceptions	
Prohibits, with certain exceptions, a congregate care setting from (1) denying the patient or resident access to the advocate or (2) prohibiting the advocate from being physically present with the patient or resident in the care setting (<i>R.C. 3792.05(D)</i>).	Establishes the following as additional exceptions to the prohibitions: <ul style="list-style-type: none"> ▪ When the care setting temporarily separates the advocate from the patient or resident for the purpose of identifying possible abuse or neglect; ▪ When the patient or resident is participating in a group therapy session (<i>R.C. 3792.05(D)(2)(c)</i>).
Off-site access	
Specifies that patient or resident access to an advocate includes access off-site through a means of telecommunication and requires it to be provided at no cost to the advocate and patient or resident (<i>R.C. 3792.05(D)</i>).	Limits this no cost access to the patient or resident only (<i>R.C. 3792.05(D)(2)(d)</i>).
Types of congregate care settings – recovery housing and certain residential facilities	
Includes the following as types of congregate care settings subject to the bill: recovery housing, Department of Developmental Disabilities-licensed residential facilities, and Department of Mental Health and Addiction Services (OhioMHAS)-licensed residential facilities (<i>R.C. 3792.05(A)</i>).	Removes recovery housing and OhioMHAS-licensed residential facilities from the bill’s congregate care setting definition so that the bill does not apply to those facilities (<i>R.C. 3792.05(A)</i>).
Personal protective equipment (PPE)	
Requires a congregate care setting’s protocol governing the use of PPE, which may be established by the setting under certain circumstances, to include exemptions for vulnerable populations (<i>R.C. 3792.05(E)</i>).	Eliminates this provision and instead specifies that, under the protocol, an advocate is exempt from using PPE if the advocate presents a note from a practitioner (physician, physician assistant, advanced practice registered nurse, or psychologist) documenting that such use conflicts with the advocate’s own physical or mental health condition (<i>R.C. 3792.05(E)</i>).

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Immunity	
<p>Grants immunity from administrative and civil liability 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 <i>(R.C. 3792.05(E))</i>.</p> <p>Specifies that the foregoing immunity does not extend to a claim of negligence or medical malpractice against a hospital or facility for any care provided by the hospital or facility to the advocate to treat the infectious disease contracted during the advocate’s quarantine with the patient at the hospital or facility <i>(R.C. 3792.05(F))</i>.</p>	<p>Instead expands immunity to any congregate care setting where an advocate contracts an infectious disease other than a foodborne disease as a result of serving as the patient’s or resident’s advocate <i>(R.C. 3792.05(F))</i>.</p> <p>Instead specifies that the foregoing immunity does not extend to a claim of negligence or medical malpractice against a hospital or health care facility for any care provided to the advocate should the advocate seek treatment at the hospital or facility for the infectious disease <i>(R.C. 3792.05(F))</i>.</p>
Durable power of attorney for health care	
No provision.	Specifies that nothing in the bill is to be construed to change, interfere with, or restrict any of the rights and duties established by existing law governing durable powers of attorney for health care <i>(R.C. 3792.05(I) and R.C. 1337.11 to 1337.17, not in the bill)</i> .
Political subdivisions and state agencies	
Prohibits 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 care setting to violate the bill’s provisions <i>(R.C. 3792.05(H))</i> .	No provision.