OHIO LEGISLATIVE SERVICE COMMISSION

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Substitute Bill Comparative Synopsis

Sub. S.B. 144

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 (As Passed by the Senate)	Latest Version (I_135_2652)
Certificates of need to increase beds in a county ***(R.C. 3702.593; Section 4)***	
No provision.	Exempts a county with at least 60 fewer long-term care beds than the county's bed need from an existing limitation that, related to certificates of need to increase the number of beds in a county in accordance with a county's bed need, a county is considered not to need additional beds if the county's occupancy rate is less than 85% (i.e., under the substitute bill, if a county has at least 60 fewer long-term care beds than the county's bed need, the Director of Health, in considering a certificate of need to increase the number of beds in the county, will be prohibited from deeming that county as not needing additional beds due to having an occupancy rate of less than 85%). Related to that exemption, also requires, for the exemption to apply, that (1) the certificate of need be for beds in a new long-term care facility or an increase of beds in an existing long-term care facility, and the beds will be licensed as nursing home beds under existing law and (2) the beds be located in category one private rooms (i.e., private rooms that have unshared access to a toilet and sink).

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	Shortens, to every two years from every four years, the review cycle for (1) determinations of county long-term care bed supply and need and (2) certificate of need review. Regarding the Director's consideration of certificate of need applications, does both of the following: ▪ Permits the Director to approve relocation of beds from a county only if the number of beds remaining in the county after the relocation will exceed the county's bed need by at least 50 beds, as opposed to 100 beds under current law; ▪ Eliminates a requirement that permits the Director to approve relocation of beds from a county only if the number of beds in the facility's service area after the relocation is at least equal to the state bed need rate, and eliminates related provisions specifying a facility's service area. Regarding comparative review of certificate of need applications, eliminates a requirement that comparative review is required if two applications submitted during the same review period propose to relocate beds from the same service area and the number of beds left in the service area would be less than the state bed need rate. Eliminates a requirement that for an approved certificate of need, the long-term care facility from which beds were relocated must reduce the number of beds operated in the facility by at least 10% of the beds relocated. Creates a one-time period of acceptance and review that begins six months after the bill's effective date for certificates of need that relate to the changes above.
Nursing home change of operator ***(R.C. 3721.01, 3721.026, 5165.01, 5165.06, 5165.26, 5165.51, 5165.511, and 5165.518)***	
No provision.	Replaces references to an applicant for a license to operate a nursing home following a change of operator with references to the entering operator. Removes a requirement that an application for a license to operate a nursing home following a change of operator disclose the owners that own at least 5% of a management firm or business employed to manage the nursing home.

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	Specifies that the bond required to be evidenced as part of a change of operator nursing home license application may be supplied by either the entering operator or the owner of the nursing home. Adds additional circumstances under which the Director of Health is required to deny a nursing home change of operator license application. Removes actions undertaken by the owner of a nursing facility from the definition of a change of operator of a nursing home. Requires the owner of a nursing home to provide written notice of specified information before a change of owner of a nursing facility occurs. Specifies that a nursing facility that undergoes a change of owner on July 1, 2023, or later, is ineligible to receive a quality incentive payment until the earlier of the January 1 or July 1 that is six months after the effective date of the change of owner if, within one year of the change, there is a material increase in lease payments or other financial obligations of the operator to the owner. Requires, within one year, that the identity of the operator holding a license to operate a nursing facility and the person holding the Medicaid provider agreement for the facility be the same person.
Nursing home quality improvement projects ***(R.C. 3721.072)***	
No provision.	Regarding existing law that requires nursing homes to participate in at least one quality improvement project every two years, requires priority to be given to projects that assist with workforce and authorizes nursing homes to consider projects on a Department of Aging-developed list, instead of requiring the project to come from the list.
Medication aides ***(R.C. 4723.32, 4723.61, 4723.64, 4723.65, 4723.651, 4723.653, 4723.66, 4723.67, 4723.68, and 4723.69)***	
No provisions.	Limits the certification of medication aides to those practicing in nursing homes and assisted living facilities, by eliminating current law provisions governing the certification of aides practicing in ICFs/IID.

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	Eliminates the requirement that application and renewal fee amounts be established in rule and instead sets the amounts as follows: $50 for an initial application, $50 for a renewal, and $100 for a late renewal. Requires the completion of eight contact hours of continuing education as a condition of renewal. Specifies that medication aides are to be known as "certified medication aides" or "CMAs," and requires the Nursing Board to maintain an online CMA registry. Revises the law governing the approval of medication aide training programs, including by establishing a $50 application fee and reducing, from 70 to 36, the number of hours of instruction that an approved program must provide. Authorizes a medication aide to administer prescription medications to residents of nursing homes and residential care facilities, but only pursuant to the supervision of a registered nurse (RN) or licensed practical nurse (LPN), rather than the nurse's delegation, as under current law. For as-needed medications, eliminates the requirement that a nursing assessment of the patient be completed before the medication is administered, and also authorizes a medication aide to administer those medications regardless of whether the supervising nurse is present at the facility. Eliminates the existing law prohibition on a medication aide administering schedule II controlled substances. Authorizes a medication aide to administer insulin by injection if using an insulin pen device with a dosage indicator, but otherwise maintains the current law prohibition on aides administering medications by injection. Eliminates provisions requiring certain rules governing the certification and regulation of medication aides to be adopted and instead permits the Nursing Board to adopt rules.

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Competency evaluation programs and training and competency evaluation programs; certified nurse aides ***(R.C. 3721.28, 3721.30, 3721.31, and 3721.32; conforming changes in other sections)***	
No provision.	Prohibits Ohio Department of Health (ODH) rules from requiring a training and competency evaluation program instructor to have experience in a nursing home so long as the program coordinator supervising the program is an RN with two years of nursing experience, including at least one year providing services in a nursing home or ICF/IID. Eliminates existing authority for ODH to approve competency evaluation programs, but retains ODH's authority to conduct such programs; authorizes training and competency evaluation programs to also conduct competency evaluations. Establishes an alternative condition that an individual may satisfy to be eligible for employment as a nurse aide in a long-term care facility – that the individual has successfully completed a Nursing Board-approved prelicensure program of nursing education and has passed the Nursing Board-accepted examination (which the amendment deems to be the equivalent of successfully completing an ODH-conducted competency evaluation program). Establishes an additional ground upon which an individual is to be included in ODH's nurse aide registry - that the individual has successfully completed a prelicensure program of nursing education and has passed the Nursing Board-accepted examination (which the amendment deems to be the equivalent of successfully completing an ODH-conducted competency evaluation program). Specifies that individuals on ODH's nurse aide registry are to be referred to as certified nurse aides, and that only individuals on the registry are permitted to use the designation "certified nurse aide" or "CNA."
Conditional employment in home and adult day-care programs ***(R.C. 3721.121)***	
No provision.	Extends to 60 days, from 30 days, the amount of time that a home (including a nursing home, assisted living facility, or veterans' home) or adult day-care program may conditionally employ an applicant while the applicant's criminal records check results are pending.

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Adult day care *(Section 280.12 of H.B. 45 of the 134th General Assembly)*	
No provision.	Requires the Director of Budget and Management to reappropriate all remaining funds from DPF item 042628, Adult Day Care, at the end of fiscal year 2023 and 2024, respectively, to the successive fiscal year, and administer all grants to adult day care providers not later than December 31, 2024. The funding source for ALI 042628 is the Coronavirus State Fiscal Recovery Fund, which was authorized by the American Rescue Plan Act. These federal funds must be obligated by December 31, 2024, and spent by December 31, 2026.
Pharmacist reimbursement for lockable and tamper-evident containers *(Section 333.270 of H.B. 33 of the 135th General Assembly)*	
No provision.	Regarding existing law that requires the Department of Medicaid to reimburse pharmacists for costs related to dispensing drugs in lockable containers or tamper-evident containers, adds the following: ▪ A requirement that the Department, within 30 days, (1) add lockable containers and tamper-evident containers to the covered over-the-counter products list, (2) establish the additional fee to be paid to pharmacists using a formula specified in the amendment, and (3) require the state's single pharmacy benefit manager to take various actions to implement payment of the fee; ▪ A requirement that the Department, within 90 days, begin reimbursing pharmacists and take other related actions; ▪ A requirement that the Department publish a report at the end of each fiscal year containing measures of adoption by licensed pharmacies; ▪ Provisions specifying which drugs are eligible for the additional reimbursement, as follows: ▪ Beginning on the bill's effective date, medications used in addiction treatment, opioids in Schedule II of the Controlled Substances Act, and any other medications designated by the State Board of Pharmacy;

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	▪ Beginning July 1, 2025, medications identified above, plus medications listed in Schedules II and III, and benzodiazepines listed in Schedule IV, of the Controlled Substances Act, and any medication for which a prescriber prescribes a locking container or tamper-evident container.
ICF/IID peer group 5 Medicaid payment rate ***(R.C. 5124.15 and 5124.151; Section 5)***	
No provision.	Eliminates provisions of existing law that do both of the following: ▪ Prohibit the per Medicaid day payment rate for ICFs/IID in peer group 5 from exceeding the average total per Medicaid day payment rate for developmental centers that was in effect on July 1, 2013; and ▪ Establish fixed amounts for the (1) capital component, (2) direct care costs component, (3) indirect care costs component, and (4) other protected costs component for the per Medicaid day payment rate for new ICFs/IID in peer group 5. Requires the Department of Developmental Disabilities to redetermine the per Medicaid day payment rate for ICFs/IID in peer group 5 who on July 1, 2023, exceeded the average total per Medicaid day payment rate for developmental centers that was in effect on July 1, 2013.

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