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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Fraizer and Richardson

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SUMMARY

Compassionate caregivers

- Requires long-term care facilities to permit compassionate caregivers to enter the facilities to provide in-person visitation to facility residents in compassionate care situations during the COVID-19 state of emergency.
- Requires long-term care facilities to develop and implement a compassionate caregiver visitation policy within two weeks of the bill's effective date and requires the policy to meet enumerated criteria.
- Requires compassionate caregivers to undergo screening for COVID-19 symptoms and exposure before entering the facility.
- Requires the compassionate caregiver visitation policy to be the least restrictive possible and provide maximum access to residents.
- Permits at least two visitors per resident for at least two hours if the resident appears to be approaching the end of life.
- Requires long-term care facilities to permit health care and other specified individuals who are not employees of the facility to enter the facility to provide services to residents.
- Provides that COVID-19 screening and testing requirements do not apply to those individuals in exigent circumstances, such as to emergency medical personnel, first responders, or other similarly situated individuals, responding to an emergency.
- Specifies that compassionate care visits and visits provided by health care workers and other specified individuals are exempt from COVID-19 severity restrictions, even if the positivity rate in the county is greater than 10%.

Application to H.B. 606

- Clarifies that the long-term care facilities enumerated in the bill, including assisted living facilities, are included in the temporary qualified civil immunities established in House Bill 606 of the 133rd General Assembly.

Effective period

- 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.
- Declares an emergency.

DETAILED ANALYSIS

Compassionate caregivers permitted

The bill generally requires a long-term care facility to permit compassionate caregivers to enter the facility to provide in-person visitation to facility residents during the COVID-19 state of emergency. A long-term care facility is an institution, residence, or facility that provides, for a period of more than 24 hours, accommodations for three or more unrelated individuals who are dependent on the services of others, including a nursing home, residential care (“assisted living”) facility, home for the aging, or a veterans’ home. A long-term care facility does not include any federal facility, including U.S. Department of Veterans Affairs’ facilities.¹

Compassionate caregivers must comply with the facility’s visitor policy required by the bill (see “**Compassionate caregiver visitation policy**” below). When a compassionate caregiver is visiting a patient at a facility governed by the United States Centers for Medicare and Medicaid (CMS), the caregiver must also comply with all regulations and guidance issued by CMS.²

Compassionate care situations

Under the bill, compassionate care situations do not refer exclusively to end of life situations and include at least the following situations:

- The resident’s end of life.
- The resident was recently admitted to the facility and is struggling with the change in environment and lack of physical family support.
- The resident is grieving after a friend or family member has recently passed away.
- The resident is experiencing weight loss or dehydration and needs cueing and encouragement when eating or drinking.

¹ Section 1(A); R.C. 3721.01 and 5124.01, not in the bill.

² Section 1(C)(1).

- The resident is experiencing emotional distress from isolation as demonstrated by behavioral changes such as rarely speaking or crying more frequently.
- The resident is in transmission-based precautions for COVID-19, which refers to precautions that are used when the route of infection transmission is not completely interrupted using standard precautions alone.³

Identifying residents in need of compassionate care visits

Long-term care facilities must use a person-centered approach in working with residents, family members, caregivers, personal representatives, and, as appropriate, the State Long-Term Care Ombudsman Program to identify residents who are in need of compassionate caregiver visits for compassionate care situations.⁴

Screening and other procedures

The bill requires all compassionate caregivers, before entering a long-term care facility to:

1. Undergo screening to ascertain any exposure to COVID-19 and disclose any COVID-19 symptoms, including cough, shortness of breath, or a temperature above 100 degrees; and
2. Produce valid federal or state identification, log entry into the facility (including providing the individual's telephone and address except in an emergency), and provide and use all appropriate personal protective equipment.⁵

Compassionate caregiver visitation policy

The bill requires each long-term care facility to develop and implement a compassionate caregiver visitation policy within two weeks after the bill's effective date. The visitation policy must:

- Be the least restrictive possible and provide maximum access to the resident;⁶
- Designate a single point of entry where compassionate caregivers must sign in and be screened for COVID-19 symptoms before entering the facility, the same as facility staff;
- Permit evening and weekend visits to accommodate a compassionate caregiver's schedule;
- Require a compassionate caregiver to provide support to the resident in the resident's room or designated visitor space and to limit movement through the facility;

³ Section 1(B)(1).

⁴ Section 1(B)(2).

⁵ Section 1(C)(2).

⁶ Section 1(E).

- Reasonably provide hand sanitizing stations and alcohol-based hand sanitizer in accessible locations, in accordance with local health department guidelines;
- Permit at least two visitors per resident for a minimum of two hours for residents who display a substantial change of condition indicating that end of life is approaching, and longer if death is imminent. Additional visitors or increased time may be permitted as appropriate if coordinated with the facility.
- Require the facility to educate compassionate caregivers, family members, and other interested people about the right to contact the Office of the State Long-Term Care Ombudsman Program with concerns about access to the facility;
- Require the facility to communicate to compassionate caregivers its COVID-19 testing policy for visitors; and
- Require compassionate caregivers to (1) sign in upon arrival to the facility's single entry point and be screened for COVID-19 symptoms, (2) wear all necessary personal protective equipment, including a facial covering, when in the facility and perform frequent hand hygiene, (3) maintain social distancing of at least six feet with other residents and staff, (4) inform the facility if the caregiver develops COVID-19 symptoms within 14 days of a visit with the resident, (5) schedule compassionate care visits with the facility in advance, (6) not conduct visits in the resident's room for residents who share a room unless it is not possible to relocate and appropriate precautions are taken, (7) conduct visits using social distancing protocols unless the caregiver and facility identify a safe way to allow personal contact, and (8) comply with the bill's screening requirements (see "**Screening and other procedures**" above).⁷

Exemption from restrictions

The bill specifies that compassionate care visits and visits provided by health care workers and other professionals (see "**Access for health care workers and other specified individuals**" below) are exempt from COVID-19 severity restrictions, even if the positivity rate in the county is greater than 10%.⁸

Access for health care workers and other specified individuals

Long-term care facilities must permit health care and other workers who are not employees of the facility to enter the facility to provide direct care to residents or essential services to the facility. These professionals include:

- Hospice care program workers;
- Home health agency workers;

⁷ Section 1(D).

⁸ Section 1(E).

- Emergency medical services personnel;
- Dialysis technicians;
- Clinical laboratory technicians;
- Radiology technicians;
- Social workers;
- Clergy members;
- Hair salon personnel; and
- Contractors conducting critical on-site maintenance.

A facility may restrict access to such an individual, however, if the individual (1) is subject to a work exclusion due to direct exposure to COVID-19 or (2) shows symptoms of COVID-19 when being screened before entering the facility.⁹ These health care and other workers must adhere to the core principles of COVID-19 infection prevention and comply with COVID-19 testing requirements; however, the screening and testing requirements do not apply in exigent circumstances, such as to emergency medical personnel, first responders, or other similarly situated individuals, responding to an emergency.

Additionally, personnel who provide nonemergency medical transportation to residents as arranged by the facility must be tested with the same frequency as facility employees.¹⁰

Federal guidance

The bill provides that it shall not be construed or implemented in such a way as to conflict with federal regulatory guidance regarding long-term care facility visitation during the COVID-19 outbreak, such as CMS or CDC guidance.¹¹

Application to House Bill 606

The bill clarifies that a long-term care facility, including an assisted living facility, is a “facility” for purposes of the temporary qualified civil immunity granted under House Bill 606 of the 133rd General Assembly to health care providers (including long-term care and assisted living facilities) rendering health care or emergency medical services as a result of or in response to a disaster or emergency.

The bill also clarifies that a long-term care facility is a “person” for purposes of the temporary qualified civil immunity granted under H.B. 606 from suit against any person for

⁹ Section 1(F).

¹⁰ Section 1(G).

¹¹ Section 1(H).

injury, death, or loss to person or property caused by exposure to, or transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2.¹²

Effective period

The bill is effective until the sooner of December 31, 2021, or the end of the COVID-19 state of emergency declared by the Governor.¹³

HISTORY

Action	Date
Introduced	02-16-21

H0120-I-134/ec

¹² Section 2.

¹³ Section 3.