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Bill Analysis
Legislative Service Commission

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(As Introduced)

Reps. Tiberi, Van Vyven, Netzley, Goodman, Mottley, Ogg, DePiero, Olman, Taylor, Jones, Buehrer, Evans, Krupinski, Flannery, Britton

BILL SUMMARY

- Requires the Department of Health to develop and publish the Ohio Nursing Facility Consumer Guide, for use by individuals considering entering a nursing facility in the state and by their families, friends, and advisors.
- Requires that the consumer guide provide users with information on each nursing facility in the state, with the information to include several measures of nursing facility quality and other data useful in comparing and selecting among facilities.
- Requires that the consumer guide be published in both printed and electronic forms, with the electronic version available on the Internet.
- Creates an eight-member Nursing Facility Consumer Guide Advisory Council to make recommendations on rules concerning the content of the guide and to advise on other matters concerning the guide.
- Makes an appropriation.

CONTENT AND OPERATION

Publication of nursing facility consumer guide

(R.C. 3721.61, 3721.62, and 3721.63)

The bill requires the Department of Health to develop and publish a guide to nursing facilities in the state for use by individuals considering entering a

nursing facility and by their families, friends, and advisors.¹ The guide is to be titled the Ohio Nursing Facility Consumer Guide.

The guide must be published both in computerized form for distribution over the Internet and in printed form for distribution as a pamphlet, booklet, or book. The Department must make the computerized form of the guide available within eight months of the bill's effective date, and the printed form within nine months of that date.

The bill requires the Department to adhere to the following principles in developing and publishing the guide:

--It should be designed to provide users with a variety of measures of nursing facility quality and with other information useful in comparing and selecting nursing facilities.

--It should present its information in a manner that is easy to use and understand.

--It should allow users to determine which measures are most important to them, but not establish a ranking or grading system.

--The information in the guide should be kept as current as practicable.

The Department must make the guide available to any person or government entity, and cannot restrict access by requiring payment of a fee, use of a password, or fulfillment of any other condition. The Department of Health, and also the Departments of Job and Family Services and Aging, are to develop and implement programs and other strategies to encourage use of the guide by individuals considering entering a nursing facility and their families, friends, and advisors.

Contents of the consumer guide

(R.C. 3721.64)

The Ohio Nursing Facility Consumer Guide must present information on each nursing facility in the state. The guide is required to include for each facility, to the extent it is available to the Department of Health, customer satisfaction data, clinical quality indicator data (meaning measures of various aspects of the physical

¹ As used in the bill, a "nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility or a skilled nursing facility for purposes of the Medicare or Medicaid program.

or mental conditions of facility residents), data derived from the standard surveys of each facility that are performed by the Department under existing law to measure compliance with state and federal regulatory requirements, and any other information the Department specifies by rule. The following sections of this analysis describe in detail the bill's requirements concerning the categories of data that must be included in the guide.

Customer satisfaction data

(R.C. 3701.83, 3721.611, 3721.67, 3721.671, and 5111.20)

While the bill allows the Department of Health to contract with any person or government entity to perform any function related to the publication of the Ohio Nursing Facility Consumer Guide, it requires that the Department contract to have nursing facility customer satisfaction surveys conducted. The surveys are to be conducted semiannually, and must consist of standardized questionnaires, one for nursing facility residents and one for families of nursing facility residents. Each questionnaire must ask the resident's age and gender, and is to be structured in a manner that uses a scale allowing for four possible answers to each question concerning customer satisfaction. The resident questionnaire must ask who, if anyone, assisted the resident in completing the questionnaire. The family questionnaire must ask the relationship of the person completing the questionnaire to the resident.

Resident surveys are required to be conducted in person, using a standardized survey protocol and in a manner that preserves the resident's confidentiality as much as possible. Family surveys are to be conducted using anonymous questionnaires distributed to families and returned to a person other than the nursing facility.

The results of the surveys are to be used in the consumer guide, and also must be provided to the nursing facilities to which they pertain. The bill requires each nursing facility in the state to participate as necessary for successful completion of the surveys, and allows the Department of Health to charge the facility a fee for each survey. The fee cannot exceed \$200, and is subject to reimbursement through the Medicaid program.

The Department must deposit the fees into the state treasury to the credit of its General Operations Fund. The fees are to be used for costs associated with the publishing of the consumer guide, including the cost of contracting for the surveys. The Department can contract with a person or government entity to collect the fees on behalf of the Department.

In awarding the contract to have the surveys conducted, the Department is required to choose a person or government entity that has experience in surveying the customer satisfaction of nursing facility residents and their families. The contract must permit the person or government entity to subcontract with other persons or government entities for purposes of conducting all or part of the surveys.

Clinical quality indicators

(R.C. 3721.68)

The bill requires the Department of Health to calculate clinical quality indicators for each nursing facility for use in publishing the consumer guide. The indicators are to be calculated by using the measures and calculation methodology that have been approved or recommended for use in the Medicare or Medicaid programs. Alternatively, the Department can adopt rules specifying different measures or a different calculation methodology.

Standard survey data

(R.C. 3721.65(C) and 3721.66(B))

As mentioned above, existing law requires the Department of Health to conduct standard surveys of nursing facilities to measure compliance with state and federal regulatory requirements. The bill requires the consumer guide to include, for each facility, the date of the facility's most recent standard survey, the percentage of the total number of survey data tags (which identify, or "tag," specific regulatory requirements) with respect to which the facility was found to be in compliance during the survey, the statewide average percentage of the total number of survey data tags with respect to which facilities were found to be in compliance during the most recent standard surveys, and the date the facility achieved substantial compliance with Medicare and Medicaid certification requirements.

Specific requirements for the computerized form of the consumer guide

(R.C. 3721.65)

The bill includes specific requirements concerning how the computerized form of the consumer guide is to be structured. The opening electronic page of the guide must include all of the following general information:

--A description of the guide.

--Disclaimers stating the limitations of the data included in the guide, including statements that standard surveys of nursing facilities are conducted at periodic intervals and that conditions at a facility can change significantly between standard surveys.

--A recommendation that individuals considering nursing facility placement visit any facilities they are considering.

--Electronic links to other information on the Internet about selecting nursing facilities, including information maintained by pertinent government agencies and private organizations and telephone numbers for those agencies and organizations.

--Other information the Department specifies by rule.

In addition, the consumer guide is to be structured in a manner that allows the user to search for information in the guide in multiple ways, including searches by facility name, county, and municipality. The first information to appear on the computer screen following a search must be a list of all facilities identified by the search. For each facility listed, the consumer guide must present the user with summaries of the following comparative information:

--The responses made by families to two separate measures of customer satisfaction included in the required customer satisfaction surveys. For each measure, the guide must compare the responses for the facility to the statewide average. The responses are to be expressed as percentages of families that are satisfied or very satisfied with the facility.

--The scores on two separate clinical quality indicators. For each indicator, the guide must compare the facility's score to the statewide average. The scores are to be expressed as percentages.

--The data described above under "*Standard survey data*" concerning the facility's most recent standard survey.

--An electronic link allowing the user to gain access to facility-specific information.

When the guide's user opens an electronic link to facility-specific information, the first information to appear on the computer screen must include all of the following:

--The name of the facility and its owner, the facility's telephone number, and the facility's address, including the county in which the facility is located. The

guide must include a computer function that pinpoints on a map the facility's location.

--The facility's status with regard to Medicare and Medicaid certification and private accreditation.

--The number of beds in the facility.

--The direct care staffing level for the facility, compared to the average staffing level for facilities in the facility's peer group. The bill specifies that the staffing levels must be expressed on a per resident, per day basis and be calculated by adding the hours of staffing performed by nurse aides, licensed practical nurses, and registered nurses, as reported on the facility's most recent Medicaid cost reports filed with the Department of Job and Family Services, and dividing the sum by the number of inpatient days reported on the cost reports.

--An electronic link allowing the guide's user to gain access to a listing of services provided by the facility.

--At the facility's option, a picture of the facility, a brief statement provided by the facility, and an electronic link to any information the facility maintains about itself on the Internet.

--The Department of Health's summary customer satisfaction, clinical quality indicator, and standard survey data for the facility. This information must be presented with electronic links allowing the user to gain access to additional information. The additional information must include, for each question asked on the questionnaires used in the resident and family surveys, the customer satisfaction responses to the four-level scale used in asking the question. The responses for the facility are to be compared to the statewide average and expressed in percentages.

Updating computerized guide information

(R.C. 3721.651)

For the computerized version of the guide, the Department of Health must update the customer satisfaction data semiannually, as the customer satisfaction surveys are conducted. The clinical quality indicator data must be updated in January, April, July, and October of each year, using the most recent resident assessment data available to the Department. The data derived from standard surveys of each facility is to be updated weekly, using the most recent standard survey data available to the Department.

The bill requires the Department to immediately modify the data included in the computerized consumer guide to reflect either (1) any change in the survey data resulting from informal dispute resolution, an appeal, or any other process, and (2) the date of correction of any deficiency found by the Department during a standard survey.

Specific requirements for the printed form of the consumer guide

(R.C. 3721.66)

The bill also includes specific requirements concerning how the printed form of the consumer guide is to be structured. These requirements parallel those described above for the computerized version of the guide with regard to the information that must be available to users of the guide. The Department of Health is required to publish updated printed versions of the guide every six months.

Nursing Facility Consumer Guide Advisory Council

(R.C. 3721.70)

The bill creates an eight-member Nursing Facility Consumer Guide Advisory Council, to be convened by the Director of Health. The Council is charged with (1) recommending rules to be adopted by the Department of Health concerning the consumer guide, (2) recommending administrative practices to the Department for improving the operation and content of the guide, and (3) recommending legislative changes needed to improve the guide. The Council also is to consider whether it is feasible to include in the consumer guide other long-term care facilities, such as residential care facilities, intermediate care facilities for the mentally retarded, and nursing homes that are not nursing facilities or skilled nursing facilities.

The Council consists of the following members:

--A representative of the Department of Health, appointed by the Director of Health;

--A representative of the Department of Aging, appointed by the Director of Aging;

--A representative of the Ohio Health Care Association, appointed by the chief administrator of the association;

--A representative of the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging, appointed by the chief administrator of the association;

--A representative of the Ohio Academy of Nursing Homes, appointed by the chief administrator of the academy;

--A representative of the Ohio Association of Regional Long-term Care Ombudsmen, appointed by the chief administrator of the association;

--A representative of the Ohio chapter of the American Association of Retired Persons, appointed by the chief administrator of the chapter;

--A representative of a research organization, appointed by the chief administrator of the organization. The research organization is to be selected by the Director of Health from among Ohio research organizations that have experience in long-term care policy matters.

Each Council member serves at the discretion of the person who appointed the member. Each member serves without compensation or reimbursement for expenses, except to the extent that serving as a member of the Council is part of the member's regular duties of employment. The member serving as the representative of the Department of Health serves as the Council's chairperson, and the Department must supply meeting space and staff support for the Council.

The Nursing Facility Consumer Guide Advisory Council is not subject to the State Agency Sunset Law.

Department of Health rules

(R.C. 3721.69)

The Department of Health is required to adopt rules to implement and administer the Consumer Guide Law, but only if the Nursing Facility Consumer Guide Advisory Council first recommends the rules be adopted. The rules are to specify all of the following:

--The content of the computerized and printed forms of the guide, including any information in addition to that specified by the bill.

--The two customer satisfaction measures to be published in the guide.

--The two clinical quality indicators to be published in the guide.

--For purposes of expressing average staffing levels in the guide, criteria to be used in classifying nursing facilities into peer groups, which can be based on case-mix scores calculated for nursing facilities under Medicaid law, the size of nursing facilities, the location of facilities, or other pertinent factors.

--The format for listing nursing facility services in the guide and the manner in which that information is to be collected from nursing facilities.

--If clinical quality indicators are to be calculated using measures and methodologies that are different from those that have been approved or recommended for use in the Medicare or Medicaid program, the alternative measures and methodologies to be used in making the calculations.

--Fees for conducting customer satisfaction surveys;

--A method of including additional long-term care facilities in the guide pursuant to the Council's consideration of this matter.

--Any other requirements necessary to implement and administer the Consumer Guide Law.

If the Council does not make a recommendation for rules addressing any of these matters, the Department is not required to adopt rules on that matter. All rules that are adopted must be done so in accordance with the Administrative Procedure Act. The bill states that initial rules must be adopted not later than six months after the bill's effective date.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-28-99	p. 1079

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