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Bill Analysis
Legislative Service Commission

H.B. 619

123rd General Assembly
(As Introduced)

Reps. Barrett, Allen, Ford, Hollister, D. Miller, R. Miller

BILL SUMMARY

- Requires employees, applicants, participants, and residents of adult care facilities, adult day-care programs, home health agencies, homes, and PASSPORT agencies to be immunized against the influenza virus and pneumococcal disease.
- Requires an employee, applicant, participant, or resident to submit proof of immunization prior to employment or receipt of services.
- Provides an exemption from the proof-of-immunization requirements if an individual submits proof that the immunization is medically contraindicated or against the individual's religious beliefs.
- Prohibits an adult care facility, adult day-care program, home health agency, home, or PASSPORT agency from employing or providing services to an individual who fails to provide proof of immunization.
- Requires adult care facilities, adult day-care programs, home health agencies, homes, and PASSPORT agencies to provide immunizations or reimburse the cost of immunization.
- Authorizes the Directors of Health and Aging to inspect immunization records and seek injunctive relief if an adult care facility, adult day-care program, home health agency, home, or PASSPORT agency employs or provides services to an individual who fails to provide proof of immunization.
- Provides that a nursing home resident may be discharged or transferred for failing to provide proof of immunization.

CONTENT AND OPERATION

Overview

The bill requires adult care facilities, adult day-care programs, home health agencies, homes, and PASSPORT agencies to immunize employees, residents, and participants against influenza and pneumonia.¹ The facilities, programs, and agencies subject to the bill are referred to in the bill as providers.

Immunization requirements

(secs. 3701.92 and 3701.924)

The bill requires each applicant, employee, participant, or resident to be immunized against the influenza virus and pneumococcal disease. Each immunization must be administered in accordance with and at intervals specified by the most recent recommendations established by the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention.

An "applicant" is defined by the bill as an individual who, on or after the bill's effective date, applies and is under final consideration for employment with a provider in a full-time, part-time, or temporary position that involves providing direct care to a person age 60 or older. An "employee" is an individual employed by a provider in a full-time, part-time, or temporary position that involves providing direct care to a person age 60 or older whose employment commences on or after the bill's effective date. Under the bill, an "applicant" or "employee" does not include an individual who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

"Participant" is defined as an individual who, on or after the bill's effective date, begins receiving services from a home health agency or PASSPORT agency or participating in an adult day-care program. A "resident" is an individual who,

¹ Current law uses "home" to refer to both nursing homes and residential care facilities. Previously referred to as rest homes, residential care facilities provide accommodations and services to persons in need of care but generally cannot provide the level of care provided in a nursing home. An adult care facility provides accommodations and some services, but is limited in the number of residents it can accommodate at any one time. Home health agencies and the PASSPORT program provide services in the homes of participants.

on or after the bill's effective date, becomes a resident of a nursing home, residential care facility, or adult care facility.

Proof-of-immunization requirements

(sec. 3701.921)

The bill provides that each applicant, prior to commencing employment, must submit to the provider who will employ the applicant proof of being immunized. Each employee, as a condition of continuing employment, must submit to the provider who employs the employee proof of being immunized. And each participant or resident, prior to receiving services from the provider and as a condition of continuing to receive the services, must submit to the provider who is providing or will provide services proof of being immunized.

Exemptions

The bill provides that an individual who is an applicant, employee, participant, or resident is not required to submit proof of being immunized if the individual submits proof that the immunization is (1) medically contraindicated, as described in the immunization product's label as approved by the United States Food and Drug Administration and determined by a physician, or (2) against the individual's religious beliefs.

Notice

Under the bill, a provider must inform each applicant, at the time of initial application for a position that involves providing direct care to a person age 60 or older, of the bill's proof of immunization requirements. It also requires the provider to inform each participant or resident and the legal representative of the participant or resident, if any, at the time the participant or resident applies to receive services from the provider, of the bill's proof of immunization requirements.

Prohibition

(sec. 3701.922)

The bill prohibits a provider from employing an applicant, continuing to employ an employee, or providing or continuing to provide services to a participant or resident if the applicant, employee, participant, or resident fails to comply with the bill's proof-of-immunization requirements.

Proof-of-immunization records

(sec. 3701.923)

The bill requires a provider to maintain, for each individual who is an applicant, employee, participant, or resident, a record of the proof received from the individual of compliance with the bill's proof of immunization requirements. Unless a record is needed for inspection by the Director of Aging or Director of Health, the provider is required by the bill to maintain the confidentiality of the record.

Inspection of records and enforcement

(secs. 173.42, 3701.882, 3721.08, 3722.05, and 3722.09)

The bill provides that the Director of Health may inspect immunization records maintained by a home health agency, home, or adult day-care program for the purpose of determining whether it has complied with the bill's requirements regarding immunizations. If there is a violation of the requirements, the Director is required by the bill to petition the court of common pleas of the county in which the agency, home, or program is located or is providing services for an order enjoining the violation. Irrespective of any other remedy the Director may have at law or equity, the court may grant the order on a showing that the respondent named in the petition is in violation of the bill's requirements regarding immunizations.

With respect to PASSPORT agencies, the bill provides the Director of Aging with the same authority to inspect immunization records and seek injunctive relief.

Rights of nursing home residents

(sec. 3721.13)

Current law limits the circumstances under which a nursing home resident may be transferred or discharged. The bill provides that a nursing home resident may be discharged or transferred for failing to comply with the bill's proof-of-immunization requirements.

Payment for immunizations

(sec. 3201.926)

A provider is required by the bill to provide to an individual who is an applicant, employee, participant, or resident the means of immunization or reimburse the individual for the cost of an immunization that is not paid for or reimbursed by the individual's health care insurance coverage.

Immunization requests

(sec. 3701.925)

The bill requires each provider to ask each individual who is not required to be immunized but is employed by or is receiving services from the provider to be immunized in accordance with and at intervals specified by the most recent recommendations established by the Advisory Committee on Immunization Practices of the United States Centers for Disease Control.

HISTORY

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Introduced	03-28-00	p. 1729

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