Jeffery A. Bernard *Legislative Service Commission*

Sub. H.B. 87*

126th General Assembly
(As Reported by S. Health, Human Services & Aging)

Reps. Willamowski, C. Evans, McGregor, Seitz, Perry, S. Smith, Hartnett, Taylor, Martin, Hagan, Reidelbach, Hood, Barrett, Brown, DeBose, Fessler, Kearns, Otterman, Schneider, Seaver, Allen, Aslanides, Blessing, Book, Bubp, Carano, Cassell, Chandler, Collier, Combs, Core, Domenick, Faber, Flowers, Gibbs, Gilb, Harwood, Hughes, Key, Mason, Oelslager, S. Patton, T. Patton, Schaffer, Schlichter, Setzer, D. Stewart, J. Stewart, Strahorn, Uecker, Webster, Yates, Yuko, Reinhard

BILL SUMMARY

Nurse recruitment program for correctional facilities

- Permits the Department of Rehabilitation and Correction to establish a loan repayment program for recruitment of registered nurses and licensed practical nurses.

Physician and Dentist Loan Repayment Programs tax deduction

- Creates, for taxable year 2007, an income tax deduction and school district income tax exemption for the amounts a physician or dentist receives under the Physician or Dentist Loan Repayment Programs.

Correctional Institution Inspection Committee

- Expands the Correctional Institution Inspection Committee from eight to 12 members.

- Requires correctional institution inspections to be conducted by Committee staff with the option of including Committee members in the inspection process.

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* *This analysis was prepared before the report of the Senate Health, Human Services and Aging Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Provides for the confidentiality of any information received by the Committee and all of its work, except for reports to the General Assembly, and exempts such materials from the Public Records Law.

Custody of person with mental illness

- Permits a licensed professional clinical counselor to take a person into custody if the counselor believes the person has a mental illness and poses a substantial threat to the person's self or others.

- Extends the date by which the Board of Nursing must issue a report on its evaluation of the pilot program for use of certified medication aides in 80 nursing homes and 40 residential care facilities from March 1, 2007, to a date that is not later than the 181st day after the Board issues its 75th medication aide certificate.

- Extends the date on which the medication aide pilot program ends, which is also the date on which any nursing home or residential care facility is authorized to use certified medication aides, from July 1, 2007, to the 31st day after the Board issues its report evaluating the pilot program.

- Requires the Board to notify legislative leaders of the Senate and House of Representatives when the Board denies an application from a nursing home or residential care facility for participation in the pilot program and the reasons for the denial.

- Provides that a nursing home is eligible to participate in the pilot program if it has been found free from deficiencies in medication administration in its most recent Department of Health survey or inspection, rather than in its two most recent surveys or inspections.

- Requires an individual seeking to be certified as a medication aide to ask that information from the Federal Bureau of Investigation be included as part of the individual's criminal record check only if the individual has not lived in Ohio for at least five years.

CONTENT AND OPERATION

Department of Rehabilitation and Correction nurse recruitment program

(R.C. 5120.55)

Background

In 1993, the General Assembly gave the Department of Rehabilitation and Correction authority to establish a physician recruitment program under which the Department, by means of a contract, could agree to repay all or part of the principal and interest of a government or other educational loan of a physician in exchange for the physician's agreement to provide services to inmates of correctional institutions administered by the Department.[1] According to Scott Neely, Legislative Liaison for the Department, the Department has not yet established such a program.[2]

The bill permits the Department to establish a similar loan repayment program for the recruitment of registered nurses and licensed practical nurses.

Eligibility

The bill provides that a nurse[3] is eligible for the recruitment program if the nurse attended either of the following:

- A nursing school in this country accredited by the Commission of Collegiate Nursing Education or the National League for Nursing Accrediting Commission.

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[1] *The authority to establish the physician recruitment program was granted by H.B. 478 of the 119th General Assembly.*

[2] *Telephone interview with Scott Neely, Legislative Liaison, Ohio Department of Rehabilitation and Correction (June 16, 2005).*

[3] *The bill defines "nurse" as a registered nurse or licensed practical nurse. "Registered nurse" is defined as an individual who holds a current, valid license issued by the Ohio Nursing Board that authorizes the practice of nursing as a registered nurse and includes a registered nurse who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. "Licensed practical nurse" is defined as an individual who holds a current, valid license issued by the Ohio Nursing Board that authorizes the practice of nursing as a licensed practical nurse.*

- A foreign nursing school that was acknowledged by the World Health Organization (WHO) and verified by a WHO member state as operating within that state's jurisdiction.

Contracts

The Department of Rehabilitation and Correction must enter into a contract with each nurse it recruits under the recruitment program. Each contract must include the scope of services to be provided, the number of hours per week and the number of years of service to be provided, the expenses that were covered by a loan that may be repaid by the Department, and the damages should a nurse fail to complete the service obligation or comply with other terms of the contract. The lending institution of the nurse or the Ohio Board of Regents may be a party to the contract and the contract may include an assignment to the Department of the nurse's duty to repay the principal and interest of the loan.

Rulemaking

If it elects to implement a nurse recruitment program, the Department must adopt rules in accordance with the Ohio Administrative Procedure Act to establish all of the following:

- Criteria for designating institutions for which nurses will be recruited.
- Criteria for selecting nurses for participating in the program.
- Criteria for determining the portion of a loan the Department will agree to repay.
- Criteria for determining reasonable amounts of the expenses covered by a loan to be repaid.
- Procedures for monitoring compliance by nurses with the terms of their contracts.
- Any other criteria or procedures necessary to implement the program.

Income taxes relative to physician and dentist loan repayment programs

(R.C. 5747.01(A)(24) and 5748.01(E))

Under the Physician Loan Repayment Program, a primary care physician who agrees to practice in a health resource shortage area may apply for full or partial repayment by the Ohio Board of Regents of the physician's government or other educational loans, up to $20,000 per year. Under the Dentist Loan

Repayment Program, repayment of loans is similarly available to dentists who agree to practice in dental health resource shortage areas.

The bill creates a state income tax deduction equal to the amount a taxpayer receives during a taxable year under either Program, to the extent that the amount received was not otherwise deducted or excluded in computing the person's federal or state adjusted gross income for a taxable year. The bill also exempts from the taxpayer's taxable income used to determine the amount of school district income taxes owed any amount received under either Program, to the extent the amount was included in the person's income. The bill's tax deduction and school district income tax exemption first apply to taxable year 2007.

Correctional Institution Inspection Committee--background

(R.C. 103.73)

The Correctional Institution Inspection Committee (CIIC) is required to maintain an inspection program for each state correctional institution and private correctional facility, and has the authority to inspect local correctional institutions without prior arrangement or notice. The CIIC is to develop programs to improve conditions or operations of correctional institutions and is required to submit reports to the General Assembly including assessments of the inmate grievance procedures at each state facility. Current law requires CIIC to inspect each state and private correctional facility once in each two-year period.

CIIC membership

(R.C. 103.71 and 103.72; Section 3)

Current law

CIIC is composed of eight members. The Speaker of the House appoints four CIIC members from the House of Representatives and the President of the Senate appoints four from the Senate. Only two of the four members representing each house can come from the same political party. Committee members serve until new appointments are made in the subsequent first regular session of the next General Assembly. CIIC is authorized to select a chairperson, vice-chairperson, and secretary by a vote of at least five of the eight members.

The bill

The bill expands CIIC to 12 members: six from the House and six from the Senate. Among the six members from each house, no more than three are to be from the same political party. The bill also provides that selection of the chairperson, vice-chairperson, and secretary requires a vote of at least seven CIIC

members. The appointments of additional members are to be made as soon as practicable after the bill takes effect.

Inspections of correctional institutions

(R.C. 103.73 and 103.74)

Current law requires CIIC inspections to be conducted by either (1) at least one Committee member and one staff member or (2) a subcommittee consisting of at least two Committee members. CIIC staff members may not be present at an inspection conducted by a subcommittee without prior authorization from the CIIC chairperson.

The bill requires inspections to be conducted by at least one staff member, with the option of one or more of the CIIC members participating. The bill revokes the CIIC's authority to create subcommittees for the purpose of conducting inspections.

Confidentiality of records

(R.C. 103.80 and 149.43)

The bill requires confidentiality of any records, reports, or other information provided to the Committee or its staff as well as any work the Committee completes, except for the reports required for submission to the General Assembly. It amends the public records law (R.C. 149.43) by exempting this information from public record requirements. The bill also provides that the Committee and its staff may utilize information provided to the Committee and its work products only while exercising the proper functions of the Committee.

Custody of person with mental illness

Current law permits a person to be taken into custody if there is reason to believe that the person in question (a) is a "mentally ill person subject to hospitalization by court order"[4] and (b) represents a substantial risk of physical

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[4] *A "mentally ill person subject to hospitalization by court order" is defined in section 5122.01(B) of the Revised Code as a mentally ill person who, because of the person's illness:*

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious bodily harm, or other evidence of present dangerousness;

harm to self or others if allowed to remain at liberty pending examination. The person can be taken into custody by any of the following: a psychiatrist; licensed clinical psychologist; licensed physician; health officer; parole officer; police officer; or sheriff.

The person taking another into custody may immediately transport the person in question to a hospital. The person taking another into custody must provide a written statement to the hospital stating why that person believes that the person in question is a "mentally ill person subject to hospitalization by court order" and represents a substantial risk to self or others, and stating the circumstances under which the person in question was taken into custody.

The bill would include licensed professional clinical counselors as persons with authority to take into custody a person thought to be a mentally ill person subject to hospitalization by court order and posing a threat to the person's self or others.

The bill also clarifies language permitting a parolee or certain other offender to be taken into custody and transported to a hospital if the chief of the adult parole authority or a parole or probation officer, with the approval of the chief of the authority, believes that the parolee or offender is (1) a mentally ill person subject to hospitalization by court order and (2) represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

Medication aides

(R.C. 4723.621, 4723.63, 4723.64, 4723.65, and 4723.66)

Until July 1, 2007, current law requires the Board of Nursing to conduct a pilot program on the use of medication aides in 80 nursing homes and 40 residential care facilities. The Board must conduct an evaluation of the pilot program and prepare a report of its findings and recommendations by March 1, 2007. At the conclusion of the pilot program, medication aides certified by the Board may be used in any nursing home or residential care facility.

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(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of other persons.

The bill makes the following changes in the laws governing the medication aide pilot program and the subsequent authority to use medication aides in any nursing home or residential care facility:

(1) The Board must issue its report evaluating the pilot program not later than the 181st day after the Board issues a medication aide certificate to the 75th individual.

(2) The pilot program is to end on the 31st day after the report is issued.

(3) On the day the Board issues its 75th medication aide certificate, the Board must post a notice on its web site indicating the date on which any nursing home or residential care facility may use medication aides.

(4) On the 91st day after the Board issues its 75th medication aide certificate, the Board must request from each participating facility the data the Board requires to be reported in conducting its evaluation of the pilot program. The participating facilities must submit the requested data not later than the 31st day after the Board's request is made.

(5) A nursing home is eligible to be selected for participation if it was found to be free from deficiencies related to the administration of medication in its most recent survey or inspection by the Department of Health, as opposed to having to meet the existing requirement of being free from such deficiencies in its two most recent surveys or inspections.

(6) When the Board denies an application for participation by a nursing home or residential care facility, the Board must notify, in writing, the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives. The notice must specify the reasons for the denial.

(7) An applicant for certification as a medication aide is required to ask the Bureau of Criminal Identification and Investigation to also request that the Federal Bureau of Investigation provide information on the applicant only if the applicant has not lived in Ohio for at least five years.

HISTORY

ACTION	DATE
Introduced	02-23-05
Reported, H. Health	06-16-05
Passed House (99-0)	06-21-05
Reported, S. Health, Human Services & Aging	---

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