



Megan Byrnett

## *Bill Analysis*

Legislative Service Commission

### **H.B. 257**

126th General Assembly  
(As Introduced)

**Reps. Hagan, D. Evans, Strahorn, Ujvagi, Chandler**

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#### **BILL SUMMARY**

- Requires, with certain exceptions, that nursing homes and residential care facilities offer influenza vaccinations to all residents and pneumococcal pneumonia vaccinations to residents 65 years of age or older.
- Requires, with certain exceptions, that hospitals offer influenza and pneumococcal pneumonia vaccinations to patients 50 years of age or older who are admitted for 24 hours or longer.

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#### **CONTENT AND OPERATION**

##### **Long-term care facilities and hospitals to offer influenza and pneumonia vaccines**

(Revised Code §3721.041 and 3727.19)

The bill requires, with certain exceptions, that nursing homes and residential care facilities<sup>1</sup> offer all residents vaccinations against influenza on an annual basis and residents 65 years of age or older vaccinations against pneumococcal pneumonia. The bill requires hospitals to offer vaccination against influenza and pneumococcal pneumonia to each patient 50 years of age or older who is admitted to the hospital for 24 hours or longer. The vaccination offered must be of a form approved by the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention for that calendar year.

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<sup>1</sup> See "**COMMENT**" below for information on nursing homes and residential care facilities.

A resident or patient may refuse vaccination. The nursing home, residential care facility, or hospital must record in the resident or patient's medical record whether the vaccine was administered, refused, or medically inappropriate.

The bill provides that a nursing home, residential care facility, or hospital is not required to offer a resident or patient vaccination against influenza or pneumococcal pneumonia if a physician has determined that vaccination is medically inappropriate or the appropriate vaccine is not available due to a shortage announced by the U.S. Centers for Disease Control and Prevention. A nursing home or residential care facility is also not required to offer a resident vaccination against pneumococcal pneumonia if the resident has already received the vaccination.

### **Rule-making**

The bill allows the Director of Health to adopt rules as the Director considers appropriate for the bill's implementation. The rules are to be adopted under the Administrative Procedure Act (R.C. Chapter 119.).

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## **COMMENT**

A nursing home<sup>2</sup> is a long-term care facility that receives and cares for at least three unrelated individuals who require skilled nursing care<sup>3</sup> because of

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<sup>2</sup> *State law governing the licensure of nursing homes and residential care facilities prohibits a person, firm, partnership, association, or corporation from operating a home without obtaining a license from the Director of Health. (R.C. 3721.05.) "Home" is defined as an institution, residence, or facility that provides, for a period of more than 24 hours, whether for consideration or not, accommodations to three or more unrelated individuals who are dependent on the services of others, including a nursing home, residential care facility, home for the aging, and a veteran's home. (R.C. 3721.01(A)(1).) In practice, however, the Department of Health issues only nursing home and residential care facility licenses under this state law. A home for the aging is licensed as both a nursing home and residential care facility and a veteran's home is licensed as a nursing home. (R.C. 3721.01(A)(8) and an October 14, 2004 conversation with Ohio Department of Health officials.) County and district homes are permitted, but not required, to obtain a residential care facility license. Once licensed though, a county or district home may not continue operation if its license is revoked. (R.C. 3721.01(A)(1)(b)(ii) and 3721.051.)*

<sup>3</sup> *"Skilled nursing care" is a procedure that requires technical skills and knowledge beyond those the untrained person possesses and are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. Skilled nursing care includes (1) irrigations, catheterizations, application of dressings, and supervision of special diets, (2) objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment, (3) special procedures contributing to*

illness or physical or mental impairment and individuals who require personal care services<sup>4</sup> but not skilled nursing care.

A residential care facility is a long-term care facility that provides accommodations for 17 or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment.<sup>5</sup> A facility is also a residential care facility if it provides accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others due to age or physical or mental impairment, and, to at least one of those individuals, any of the following: (1) supervision of special diets, (2) application of dressings, (3) administration of medication by certain persons authorized by law, or (4) other skilled nursing care provided on a part-time, intermittent basis for not more than a total of 120 days in any 12-month period.<sup>6</sup>

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-17-05	pp. 803-804

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*rehabilitation, (4) administration of medication by any method ordered by a physician, and observation of the patient after receipt of the medication, and (5) carrying out other treatments prescribed by a physician that involve a similar level of complexity and skill in administration. (R.C. 3721.01(A)(4).)*

<sup>4</sup> *R.C. 3721.01(A)(6). "Personal care services" include: (1) assisting residents with activities of daily living, (2) assisting residents with self-administration of medication, and (3) preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or licensed dietitian. (R.C. 3721.01(A)(5).)*

<sup>5</sup> *Mental impairment does not include mental illness or mental retardation. (R.C. 3721.01(A)(3).)*

<sup>6</sup> *R.C. 3721.01(A)(7) and 3721.011. The persons who may administer medication to a residential care facility resident are registered nurses, licensed practical nurses holding proof of successful completion of a course in medication administration approved by the Board of Nursing, and physicians. A licensed practical nurse may administer medication to a residential care facility resident only under the direction of a registered nurse or physician. (R.C. 3721.011(B)(1).)*

