
DEPARTMENT OF AGING

Record checks

- Makes a regional long-term care ombudsman program the responsible party for purposes of database reviews and criminal records checks for individuals who are under final consideration for employment with the regional program or employed by the regional program.
- Specifies that the requirements applicable to database reviews and criminal records checks regarding community-based long-term care services covered by Department of Aging (ODA) administered programs apply to:
 - (1) A person applying for employment with (or referred by an employment service to);
 - (2) A community-based long-term care provider; and
 - (3) If ODA rules so require, a person already employed by (or referred to) such a provider when the person seeks or holds a direct-care position involving (a) in-person contact with one or more consumers or (b) access to one or more consumers' personal property or records.
- Makes the database review and criminal records check requirements applicable to:
 - (1) Persons under final consideration for employment in a direct-care position with an area agency on aging (AAA), PASSPORT administrative agency (PAA), or subcontractor; and
 - (2) Persons referred to an AAA, PAA, or subcontractor by an employment service for a direct-care position.
- Permits the ODA Director to adopt rules making the database review and criminal records check requirements applicable to a person (1) employed in a direct-care position by an AAA, PAA, or subcontractor or (2) working in a direct-care position following referral by an employment service to an AAA, PAA, or subcontractor.
- Provides that the database review and criminal records check requirements do not apply to individuals subject to the criminal records check requirement for individuals applying for direct-care positions with nursing homes, residential care facilities, county or district homes, or other Department of Health-regulated long-term care facilities or adult day-care programs.

- Provides that the ODA Director or the Director's designee may obtain the report of a criminal records check regarding an applicant for a direct-care position with a Department of Health-regulated long-term care facility if the facility is also a community-based long-term care services provider.
- Specifies that the Excluded Parties List System, which is to be reviewed as part of a database review regarding certain types of employment, is available at the federal web site known as the System for Award Management.

PASSPORT and assisted living programs

- Requires ODA to establish new appeal procedures for the state-funded components of the PASSPORT and assisted living programs.
- Provides that, if the Choices Program is terminated, ODA is authorized to suspend new enrollments and transfer existing participants to either the PASSPORT program or a unified long-term services and support Medicaid waiver component.
- Requires an applicant for the Medicaid-funded or state-funded component of the Assisted Living Program to undergo an assessment to determine whether the applicant needs an intermediate level of care.
- Requires the Department of Medicaid to enter into an interagency agreement with ODA under which ODA performs assessments to determine if a person requires a nursing facility level of care.
- Permits ODA to design and utilize a payment method for PASSPORT administrative agency operations that includes a pay-for-performance component.
- Specifies that the spending for PASSPORT administrative agencies' site operating functions for PASSPORT, Choices, Assisted Living, and PACE are to be 105% of the level provided in fiscal year 2013.
- Requires the Medicaid payment rates for services provided under the PASSPORT program, other than adult day-care services, during fiscal years 2014 and 2015 to be not less than 98.5% of the Medicaid payment rates for the services in effect on June 30, 2011.
- Requires the Medicaid payment rates for adult day-care services provided under the PASSPORT program during fiscal years 2014 and 2015 to be 20% higher than the amount of the Medicaid payment rates for the services in effect on June 30, 2013.

Nursing homes

- Beginning July 1, 2013, requires nursing homes to participate in at least one quality improvement project listed by ODA each year.
- Beginning July 1, 2015, requires nursing homes to participate in advance care planning and generally prohibits the use of overhead paging.
- Requires ODA to implement a nursing home quality initiative to improve person-centered care that nursing homes provide and make available a list of quality improvement projects under the initiative on which ODA and nursing home representatives agree.

Board of Executives of Long-term Services and Supports

- Renames the Board of Examiners of Nursing Home Administrators to the Board of Executives of Long-Term Services and Supports and transfers the Board from the Department of Health to ODA.
- Increases, from 9 to 11, the number of Board members and modifies the eligibility requirements for Board members.
- Requires the Board to enter into a written agreement with ODA for ODA to serve as the Board's fiscal agent.
- Creates the Board of Executives of Long-Term Services and Supports Fund and requires license and registration fees collected by the Board to be deposited to the credit of the Fund instead of the General Operations Fund.
- Requires the Board to create opportunities for education, training, and credentialing of nursing home administrators and others in leadership positions in long-term services and supports settings.
- Provides guidelines for the Board's agency transition, membership changes, and name change, including provisions governing the transfer of duties and obligations.

Other provisions

- Bases the annual fee paid by a long-term care facility on the number of beds the facility was licensed or otherwise authorized to maintain for the previous year, rather than the number of beds maintained for use by residents.

- Eliminates the requirement that ODA prepare an annual report on individuals who, after long-term care consultations, elect to receive home and community-based services covered by ODA-administered Medicaid components.
- Permits the ODA Director, in consultation with the Medicaid Director, to expand the Program for All-inclusive Care for the Elderly (PACE) to new regions of Ohio under certain circumstances.
- Replaces "ombudsperson" with "ombudsman" for ODA programs.

Ombudsman-related criminal records checks

(R.C. 173.27 (primary) and 109.57)

As a condition of employment with the Office of the State Long-Term Care Ombudsman³ program in a position that involves providing ombudsman services, an individual must undergo a database review and, unless the individual fails the database review and therefore cannot be employed, a criminal records check. An existing employee must undergo a database review and criminal records check only if so required by Department of Aging (ODA) rules.

Regional long-term care ombudsman programs

The bill distinguishes individuals applying for employment with, or employed by, the Office of the State Long-Term Care Ombudsman program from individuals applying for employment with, or employed by, regional long-term care programs. Under the bill, regional programs have responsibilities regarding the database reviews and criminal records checks that are currently assigned to the State Long-Term Care Ombudsman. For example, the State Long-Term Care Ombudsman, or the Ombudsman's designee, is required by current law to provide information regarding the database reviews and criminal records checks to each individual under final consideration for employment in a position for which a database review and criminal records check must be conducted. Under the bill, a regional long-term care ombudsman program, or the program's designee, must provide the information when the individual is under final consideration for employment in such a position with the regional program. The head of a regional program may not act as the program's designee when

³ Due to a legislative directive in 1995 requiring that Revised Code sections be gender neutralized as they are amended, some references to "ombudsman" in the Revised Code have been changed to "ombudsperson." For consistency, since the bill restores the use of the term "ombudsman" in reference to programs operated by the Department of Aging, that term is used throughout this analysis.

the head is the employee for whom a database review or criminal records check is being conducted.

System for Award Management web site

Continuing law specifies various databases that are to be checked as part of a database review. The ODA Director is permitted to specify additional databases in rules. The Excluded Parties List System is one of the databases specified in statute. It is maintained by the U.S. General Services Administration. The bill specifies that the Excluded Parties List System is available at the federal web site known as the System for Award Management.

Standards that permit a disqualified individual to be employed

Current law requires the ODA Director to adopt rules specifying circumstances under which the State Long-Term Care Ombudsman program may employ an individual who is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense but meets personal character standards. The bill requires that the ODA Director instead adopt rules specifying standards that an individual must meet for the State Long-Term Care Ombudsman **or a regional long-term care ombudsman** program to be permitted to employ the individual if the employee is found to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense.

Community-based long-term care, Area Agency on Aging (AAA), and PASSPORT Administrative Agency (PAA) record checks

(R.C. 173.38 (primary), 109.57, 109.572, 173.14, 173.39, 173.391, 173.392, 3701.881, 3721.121, 5164.34, and 5164.342; Sections 110.20, 110.21, and 110.22)

Current law requires an individual to undergo a database review and criminal records check when the individual is under final consideration for employment with a community-based long-term care agency (renamed "provider" by the bill) in a position that involves providing direct care to an individual, or is referred to such an agency by an employment service for such a position. (The criminal records check is unnecessary if the results of the database review show that the individual cannot be employed in the position.) The ODA Director is permitted to adopt rules also requiring individuals employed by providers in such positions to undergo database reviews and criminal records checks. A provider is a person or government entity that provides community-based long-term care services under an ODA-administered program. Community-based long-term care services are health and social services provided to persons in their own homes or in community care settings.



Direct-care positions

As discussed above, current law's database review and criminal records check requirements apply to individuals under final consideration for employment in positions that involve providing direct care with (or referred by an employment service to) community-based long-term care agencies (providers), and, if so required by ODA rules, individuals already employed by providers. Current law does not specify what a direct-care position is. The bill defines "direct-care position" as an employment position in which an employee has either or both of the following: (1) in-person contact with one or more consumers and (2) access to one or more consumers' personal property or records.

Criminal records checks applied to AAAs, PAAs, and subcontractors

The bill requires additional individuals to undergo database reviews and criminal records checks. The additional individuals are individuals under final consideration for employment with (or referred by employment services to) any of the following in a full-time, part-time, or temporary direct-care position: (1) AAAs, (2) PAAs, and (3) subcontractors.⁴ The ODA Director is permitted to adopt rules requiring individuals to undergo database reviews and criminal records checks also when **employed** by AAAs, PAAs, and subcontractors in full-time, part-time, or temporary direct-care positions. The database reviews and criminal records checks are to be conducted for the additional individuals in the same manner as they are conducted for employees (if so required by rules) and prospective employees of community-based long-term care agencies (providers).

Subcontractors that are also home health agencies or waiver agencies

Continuing law establishes similar database review and criminal records check requirements for home health agencies and waiver agencies. A home health agency is a person or government entity (other than a nursing home, residential care facility, hospice care program, or pediatric respite care program) that has the primary function of providing certain services, such as skilled nursing care and physical therapy, to a patient at a place of residence used as the patient's home. A waiver agency is a person or government entity that provides home and community-based services under a Medicaid waiver program, other than (1) such a person or government entity certified under the Medicare program and (2) an independent provider of those services.

It is possible for a community-based long-term care agency (provider) to be, in addition, a home health agency, waiver agency, or both. Continuing law provides that

⁴ The ODA Director is to define "subcontractor" in rules.

the database review and criminal records check requirements regarding providers do not apply to individuals subject to the database review and criminal records check requirements regarding home health agencies and that a provider that is also a waiver agency may provide for employees and prospective employees to undergo database reviews and criminal records checks in accordance with the requirements regarding waiver agencies rather than the requirements regarding providers. The ODA Director, or the Director's designee, may receive the results of a criminal records check conducted in accordance with the requirements regarding home health agencies or waiver agencies when the subject of the check is an employee or prospective employee of a provider that is also a home health agency or waiver agency.

It is possible for a community-based long-term care subcontractor to be, in addition, a home health agency or waiver agency. The bill applies to such subcontractors the provisions discussed above regarding providers.

Exception for individual subject to other criminal records check

Continuing law requires the chief administrator of a nursing home, residential care facility, county or district home, or other Department of Health-regulated long-term care facility and the chief administrator of an adult day-care program to request that the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) conduct a criminal records check of each person under final consideration for employment with the facility or program in a direct-care position. The bill provides that an individual who is subject to such a criminal records check is not also required to undergo a database review and criminal records check otherwise required for an individual under final consideration for employment with a community-based long-term care agency (provider) in a direct-care position. The ODA Director or the Director's designee is permitted by the bill, however, to obtain the report of a criminal records check conducted for an individual under final consideration for a direct-care position with a Department of Health-regulated long-term care facility if the criminal records check is requested by the chief administrator of such a facility that is also a community-based long-term care agency (provider).

System for Award Management web site

Continuing law specifies various databases that are to be checked as part of a database review. The ODA Director is permitted to specify additional databases in rules. The Excluded Parties List System is one of the databases specified in statute. It is maintained by the U.S. General Services Administration. The bill specifies that the Excluded Parties List System is available at the federal web site known as the System for Award Management.



Standards that permit a disqualified individual to be employed

Current law requires the ODA Director to adopt rules specifying circumstances under which a community-based long-term care agency (provider) may employ an individual who is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for, a disqualifying offense but meets personal character standards. The bill requires instead that the ODA Director adopt rules specifying standards that an individual must meet for a provider, subcontractor, AAA, or PAA to be permitted to employ the individual if the employee is found to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

State-funded PASSPORT and assisted living programs – appeals

(R.C. 173.523, 173.545, and 173.56)

Appeal procedures

The bill requires ODA to adopt rules establishing new procedures for appeals of adverse actions related to services requested or provided under the state-funded components of the PASSPORT and assisted living programs. The rules are to be adopted under R.C. 111.15, which does not require public notice or hearings on proposed rules.

The state-funded components of the PASSPORT and assisted living programs have limited eligibility. In the case of the assisted living program, eligibility is limited to 90 days. The PASSPORT program provides home and community-based services as an alternative to nursing facility placement for eligible individuals who are aged and disabled. The assisted living program provides assisted living services to eligible individuals.

The rules ODA is to adopt must require notice and an opportunity for a hearing. They may allow appeal hearings to be conducted by telephone and permit ODA to record telephone hearings. Revised Code Chapter 119., which establishes procedures for appeals of administrative rulings, is to apply to hearings only to the extent provided for in the rules.

The bill provides that an appeal is commenced by submission of a written request for a hearing to the ODA Director within the time specified in the rules adopted by ODA. The hearing may be recorded, but neither the recording nor a transcript of the recording is part of the official record of the proceeding. The Director must notify the individual bringing the appeal of the Director's decision and of the procedure for appealing the decision.



The Director's decision may be appealed to a court of common pleas. The appeal is to be governed by Ohio's Administrative Procedure Act (R.C. Chapter 119.) except as follows:

(1) The appeal is to be in the court of common pleas of the county in which the individual who brings the appeal resides or, if the individual does not reside in Ohio, to the Franklin County common pleas court.

(2) The notice of appeal must be mailed to ODA and filed with the court not later than 30 days after ODA mails notice of the Director's decision. For good cause shown, the court may extend the time for mailing and filing the notice of appeal, but the time cannot exceed six months from the date ODA mails the notice of the Director's decision.

(3) If the court grants an individual's application for designation as an indigent, the individual is not to be required to furnish the costs of the appeal.

(4) ODA is required to file a transcript of the testimony of the state hearing with the court only if the court orders that the transcript be filed. The court may make such an order only if it finds that ODA and the individual bringing the appeal are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. ODA must file the transcript not later than 30 days after such an order is issued.

When an appeal may be brought

Under the bill, an individual who is an applicant for or participant or former participant in the state-funded component of the PASSPORT or assisted living program may appeal an adverse action taken or proposed to be taken by ODA or an entity designated by ODA concerning participation in or services provided under the component if the action will result in any of the following:

(1) Denial of enrollment or continued enrollment in the component;

(2) Denial of or reduction in the amount of services requested by or offered to the individual under the component;

(3) Assessment of any patient liability payment pursuant to rules adopted by ODA.

The appeal is to be made in accordance with the bill and rules adopted by ODA.



When an appeal may not be brought

An appeal may not be brought by an individual if any of the following is the case:

- (1) The individual has voluntarily withdrawn the application for enrollment in the component;
- (2) The individual has voluntarily terminated enrollment in the component;
- (3) The individual agrees with the action being taken or proposed;
- (4) The individual fails to submit a written request for a hearing to the Director within the time specified in the rules;
- (5) The individual has received services under the component for the maximum time permitted.

Transfer of participants from Choices to PASSPORT

(R.C. 173.53)

H.B. 153 of the 129th General Assembly (the main operating appropriations act for 2011-2013) required the Department of Medicaid (ODM) to seek federal permission to create a unified long-term services and support Medicaid waiver program to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. H.B. 153 also provided that, should the waiver component be created, ODA and ODM are to determine whether the Choices program should continue to operate as a separate Medicaid waiver component or be terminated.

The bill provides that, if the Choices program is terminated, ODA, no sooner than six months before Choices ceases to exist, is authorized to do both of the following:

- (1) Suspend new enrollment in Choices;
- (2) Transfer Choices participants to the unified long-term services and support Medicaid waiver component or, if that component is not created, transfer them to the Medicaid-funded component of the PASSPORT program.

Assisted Living Program assessments

(R.C. 173.546 (primary), 173.42, 173.54, 173.541, and 173.544)

The Assisted Living Program is a program administered by ODA that provides assisted living services to eligible individuals living in residential care facilities. The program has a Medicaid-funded component and a state-funded component. ODA administers both components. The Medicaid-funded component is administered pursuant to an interagency agreement between ODA and the Department of Medicaid (ODM).

An individual must need an intermediate level of care, and meet other requirements, to qualify for the Medicaid-funded or state-funded component of the Assisted Living Program. Under current law, whether an individual needs an intermediate level of care is determined in accordance with an ODM rule. The bill establishes in statute an assessment process for determining whether an individual needs an intermediate level of care.

The bill's assessment process requires each applicant for the Medicaid-funded or state-funded component of the Assisted Living Program to undergo the assessment to determine whether the applicant needs an intermediate level of care. The assessment may be performed concurrently with a long-term care consultation provided under a program developed by ODA.

ODM or an agency under contract with ODM is to conduct the assessments. ODM is permitted to contract with one or more agencies to perform the assessments. A contract must specify the agency's responsibilities regarding the assessments.

An applicant or applicant's representative is given the right to appeal an assessment's findings. If an applicant is applying for the Medicaid-funded component of the Assisted Living Program, the appeal is to be made in accordance with an appeals process ODM is to select for the Medicaid program. The bill defines "representative" as a person acting on behalf of an applicant for the Medicaid-funded or state-funded component of the Assisted Living Program. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on an applicant's behalf.

ODM or the agency under contract with ODM must provide written notice of the right to appeal to an applicant or applicant's representative and the residential care facility in which an applicant intends to reside if enrolled in the Assisted Living Program. The notice must include an explanation of the appeal procedures. ODM or the agency under contract with ODM is required to represent the state in any appeal of an assessment's findings.



Long-term care assessments

(Section 209.20)

Current law requires a Medicaid recipient who applies or intends to move to a nursing facility to receive an assessment to determine if the recipient requires a nursing facility level of care. ODM must conduct the assessment or contract with another entity to conduct the assessment. The bill requires ODM to enter into an interagency agreement with ODA under which ODA performs the assessment.

Performance-based reimbursement for PASSPORT operations

(Section 209.20)

PASSPORT administrative agencies provide assistance for the unified long-term care budget and administer programs on behalf of ODA. The bill permits ODA to design and utilize a payment method for PASSPORT administrative agency operations that include a pay-for-performance incentive component that is earned by a PASSPORT administrative agency when defined consumer and policy outcomes are achieved.

Spending levels for PASSPORT administrative agencies' functions

(Section 323.53)

The bill requires that for fiscal years 2014 and 2015, spending for PASSPORT administrative agencies' site operating functions relating to screening, assessments, general administration, and provider relations for the Medicaid waiver-funded PASSPORT program, Choices program, Assisted Living program, and PACE program be at 105% of the level provided in fiscal year 2013.

Payment rates for PASSPORT services

(Section 323.263)

The bill requires that the Medicaid payment rates for services provided under the PASSPORT program, other than adult day-care services, during fiscal years 2014 and 2015 be not less than 98.5% of the Medicaid payment rates for the services in effect on June 30, 2011. The Medicaid payment rates for adult day-care services provided during fiscal years 2014 and 2015 are to be 20% higher than the amount of the Medicaid payment rates for the services in effect on June 30, 2013.

Nursing home licensure requirements

(R.C. 173.60 and 3721.072)

The bill adds the following to requirements that a nursing home must meet to maintain its license:

(1) Beginning July 1, 2013, requires each nursing home to participate each year in at least one project improving person-centered care that the nursing home selects from a list ODA is to make available (see "**ODA nursing home quality initiative**," below).

(2) Beginning July 1, 2015, requires each nursing home to participate in advance care planning (the opportunity to discuss the resident's care goals on admission and quarterly thereafter) with each resident or, if the resident is unable to participate, the resident's sponsor.

(3) Beginning July 1, 2015, requires each nursing home to prohibit the use of overhead paging (the use of audible announcements via an electronic sound amplification and distribution system throughout part or all of a nursing home) except when a nursing home permits the use of overhead paging for matters of urgent public safety or urgent clinical operations and in accordance with the preferences of the nursing home's residents.

ODA nursing home quality initiative

(R.C. 173.60)

For the purpose of improving person-centered care provided by nursing homes, the bill requires ODA, with the assistance of the Office of the State Long-Term Care Ombudsman Program, to implement a nursing home quality initiative. "Person-centered care" means a relationship-based approach to care that honors and respects the opinions of individuals receiving care and those working closely with them.

The initiative is to include quality improvement projects that provide nursing homes with resources and on-site education promoting person-centered strategies and positive resident outcomes, as well as other assistance designed to improve the quality of nursing home services. ODA is to make available a list of the projects that may be used by nursing homes to comply with licensure requirements (see "**Nursing home licensure requirements**," above).

ODA may include in the list quality improvement projects offered by any of the following: (1) ODA, (2) a quality improvement organization under contract with the U.S. Secretary of Health and Human Services to provide peer review of the utilization



and quality of health care services, (3) other state agencies, (4) the Ohio Person-Centered Care Coalition in the Office of the State Long-Term Care Ombudsman Program, or (5) any other academic, research, or health care entity identified by ODA.

ODA is required to consult with representatives of nursing homes when developing the list. Projects on which ODA and the representatives agree are to be included on the list.

Board of Executives of Long-Term Services and Supports

(R.C. 4751.01 to 4751.08 and 4751.10 to 4751.14; conforming changes in R.C. 149.43 and 1347.08)

The bill renames the Board of Examiners of Nursing Home Administrators to the Board of Executives of Long-Term Services and Supports and transfers the Board from the Department of Health to ODA. The bill defines "long-term services and supports settings" to mean any institutional or community-based setting in which medical, health, psycho-social, habilitative, rehabilitative, or personal care services are provided to individuals on a post-acute care basis.

The bill makes further changes to the Board's membership and duties, explained in more detail below.

Board membership changes

(R.C. 4751.03)

The bill modifies the number and qualifications of Board members. Under the bill, the Board is to consist of the following 11 members, all appointed by the Governor:

- Four members who are nursing administrators, owners of nursing homes, or officers of corporations owning nursing homes, and who have an understanding of person-centered care and experience with a range of long-term services and supports settings;
- Three members (1) who work in long-term services and supports settings that are not nursing homes, and who have an understanding of person-centered care and experience with a range of long-term services and supports settings, and (2) at least one of whom also must be a home health administrator, an owner of a home health agency, or an officer of a home health agency;
- One member who is a member of the academic community;

- One member who is a consumer of services offered in a long-term services and supports setting;
- One member who is a representative of the Department of Health, designated by the Director of Health, who is involved in the nursing home survey and certification process;
- One member who is a representative of the Office of the State Long-Term Care Ombudsman, designated by the State Long-Term Care Ombudsman.

The bill prohibits the following Board members from having or acquiring any direct financial interest in a nursing home or long-term services and supports settings: the member representing the academic community, the consumer member, and the members representing the Department of Health and Ombudsman.

The bill retains current law provisions governing the Board's administration, including quorum requirements, election of a chairperson and vice-chairperson, removal of members by the Governor, and meeting requirements. Additionally, the bill preserves the current law provision that Board members are to serve three-year terms, and that no member is permitted to serve more than two consecutive full terms. The bill also retains a requirement of current law that all Board members must be U.S. citizens and residents of Ohio.

Under current law, the Board consists of nine members, all appointed by the Governor. Eight members of the Board are representative of the professionals and institutions concerned with care and treatment of chronically ill or infirm aged patients and one member is a public member, at least 60 years of age. Further, current law requires that four members of the Board must be nursing home administrators, owners of nursing homes, or an officer of a corporation owning a nursing home. Current law also requires that less than a majority of the Board members may represent a single profession or institutional category. Under current law, a person appointed as a noninstitutional member is prohibited from having or acquiring any direct financial interest in a nursing home.

Board member transition

(Section 515.40)

The bill requires that, notwithstanding the provision describing the Board's membership above, the individuals serving as members of the Board of Examiners of Nursing Home Administrators (current Board) on the bill's effective date are to continue to serve as members of the Board of Executives of Long-Term Services and Supports (new Board). The expiration date of these members' terms is to be the date on



which their terms as members of the current Board are set to expire. At the time such members' terms expire, members are to be appointed to the new Board in accordance with the requirements outlined above.

Within 90 days after the bill's effective date, the Governor is required to appoint to the new Board the member representing the academic community, the consumer member, and the members representing the Department of Health and Ombudsman. The initial terms for these members will end on May 27, 2014. After this initial term, the terms are to be for the duration provided above.

Board member compensation

(R.C. 4751.03(E); see also R.C. 124.15(J), not in the bill)

The bill updates a provision of current law by stating that each Board member must be reimbursed for actual and necessary expenses incurred in the discharge of Board duties. Further, all Board members, except for the member designated by the Director of Health and the member designated by the Ombudsman, are to be paid in accordance with the salaries or wages designated by the Department of Administrative Services.

Board administration and assistance

(R.C. 4751.03(H))

The bill clarifies that the Board must appoint a secretary with no financial interest in a long-term services and supports setting, instead of a nursing home. Additionally, the bill eliminates the obligation of the Department of Health to provide administrative, technical, or other services to the Board.

Deposit of license and registration fees; creation of fund

(R.C. 3701.83, 4751.04(A)(7), 4751.05, and 4751.14)

The bill provides that the Board must pay the license and registration fees it collects into the Board of Executives of Long-Term Services and Support Fund, created by the bill. Money in the Fund is to be used by the Board to administer and enforce the laws governing the Board. Investment earnings of the Fund are to be credited to the Fund.

Under current law, license and registration fees are deposited into the state's General Operations Fund.

Education, training, and credentialing opportunities

(R.C. 4751.04(A)(10))

The bill requires the Board to create opportunities for the education, training, and credentialing of nursing home administrators and others in leadership positions who practice in long-term services and supports settings or who direct the practices of others in those settings. When creating these opportunities, the Board is required to do the following:

- Identify core competencies and areas of knowledge that are appropriate for nursing home administrators and others working within the long-term services and supports settings system, with an emphasis on leadership, person-centered care, principles of management within both the business and regulatory environments, and an understanding of all post-acute settings, including transitions from acute settings and between post-acute settings.
- Assist in the development of a strong, competitive market in Ohio for training, continuing education, and degree programs in long-term services and supports settings administration.

ODA to serve as the Board's fiscal agent

(R.C. 4751.04(A)(9) and 4751.042)

The bill requires the Board to enter into a written agreement with ODA for ODA to serve as the Board's fiscal agent.

Requirements under the written agreement

Under the bill, ODA is responsible for all the Board's fiscal matters and financial transactions, as specified in the written agreement. The written agreement must specify the fees that the Board is to pay to ODA for services performed under the agreement. The bill provides that such fees must be in proportion to the services performed for the Board by ODA. The bill specifies that ODA, in its role as fiscal agent for the Board, serves as a contractor of the Board, and does not assume responsibility for the debts or fiscal obligations of the Board.

The bill requires ODA to provide the following services under the written agreement:

- Preparation and processing of payroll and other personnel documents that the Board approves;



- Maintenance of ledgers of accounts and reports of account balances, and monitoring of budgets and allotment plans in consultation with the Board;
- Performance of other routine support services, specified in the agreement, that ODA considers appropriate to achieve efficiency.

Permitted terms of the written agreement

Under the bill, the written agreement between the Board and ODA may include provisions for the following:

- Any shared services between the Board and ODA;
- Any other services agreed to by the Board and ODA, including administrative or technical services.

Board responsibilities regarding fiscal and administrative matters

The bill provides that the Board, in conjunction and consultation with ODA and relative to fiscal matters, has the sole authority to expend funds from the Board's accounts for programs and any other necessary expenses the Board may incur. Additionally, the bill provides that the Board has a responsibility to cooperate with and inform ODA fully of all financial transactions.

Further, the bill requires the Board to follow all state procurement, fiscal, human resources, information technology, statutory, and administrative rule requirements.

Additional Board transition procedures

(Section 515.40)

The bill sets out terms providing for the transition from the current Board of Examiners of Nursing Home Administrators to the new Board of Executives of Long-Term Services and Supports, including provisions governing the following:

- The transition of assets and liabilities;
- The assumption of obligations and authority by the new Board;
- The effect of the transition on the rights, privileges, and remedies, and duties, liabilities, and obligations accrued by the current Board and their transfer to the new Board;

- The transition of unfinished business that was commenced but not completed by the current Board or the current Board's secretary to the new Board or the new Board's Secretary;
- The continuation of the current Board's rules, orders, and determinations under the new Board;
- Subject to laws governing layoffs of state employees, the transition of employees of the current Board who provide administrative, technical, or other services to the current Board on a full-time, permanent basis to serve under the new Board and provisions requiring that these employees are to retain their positions and benefits, except that those employees in the classified service must be reclassified into the unclassified service and are to serve at the pleasure of the new Board;
- The interpretation of references to the current Board in any statute, contract, or other instrument and deeming the references applicable to the new Board;
- The effect of the transition on pending court or agency actions or procedures and required substitution of the new Board in the old Board's place for such actions or procedures.

Long-term care facility bed fee

(R.C. 173.26)

The bill changes the number of beds used to determine a long-term care facility's annual fee from the number of beds maintained by the facility for use by residents during any part of the previous year to the number of beds the facility was licensed or otherwise authorized to maintain during any part of that year. The fee of six dollars per bed is paid to ODA to be used to operate regional long-term care ombudsman programs.

The bed fee is paid by several types of long-term care facilities, including residential care facilities, nursing homes, and homes for the aging. A residential care facility is a home that provides accommodations to up to 17 individuals, at least three of whom need supervision and personal care services. A nursing home is a home that provides skilled nursing care, as well as accommodations and personal care services. A home for the aging is a home that provides services as a residential care facility and as a nursing home. The bill eliminates the requirement that homes for the aging pay the annual fee.



Report on long-term care consultations

(R.C. 173.425 (repealed))

Under ODA's long-term consultation program, individuals receive information about options available to meet long-term care needs and factors to consider when making long-term care decisions. The bill eliminates a requirement that ODA prepare an annual report on individuals who are the subjects of long-term care consultations and elect to receive home and community-based services covered by ODA-administered Medicaid components. The report being eliminated addresses the following: (1) the total savings realized by providing the home and community-based services, rather than nursing facility services, (2) the average number of days the services are received before and after receiving nursing facility services, and (3) a categorical analysis of the acuity levels of the recipients of the services.

Expansion of the Program for All-inclusive Care for the Elderly (PACE)

(Section 323.120)

To effectively administer and manage growth within the Program for All-inclusive Care for the Elderly (PACE), the bill permits the ODA Director, in consultation with the ODM Director, to expand PACE to regions of Ohio that are not being served by the program. PACE, or the Program of All-Inclusive Care for the Elderly, is a managed care system that provides participants with coverage of *all* of needed health care, including care in both institutional and community settings. It is funded by both Medicaid and Medicare.⁵

The PACE expansion may occur only if the following apply: (1) funding is available for the expansion, (2) the Directors mutually determine that PACE is a cost-effective alternative to nursing home care, and (3) the U.S. Centers for Medicare and Medicaid Services agrees to share with Ohio any savings to Medicare resulting from an expansion of PACE. In implementing an expansion, the ODA Director cannot decrease the number of PACE participants in the original PACE sites to a number that is below the number of individuals in those areas who were participants in the program on July 1, 2011.

⁵ Ohio Department of Aging, *About PACE* (last visited February 14, 2013) available at: <http://aging.ohio.gov/services/PACE/>. The two PACE providers in Ohio are TriHealth Senior Link and McGregor PACE Center for Senior Independence. The service area for the PACE agreement with TriHealth Senior Link is Hamilton County and certain zip codes in Warren, Butler, and Clermont counties. Cuyahoga County is the service area for the PACE agreement with McGregor PACE.



Replacing references to "ombudsperson"

(R.C. 109.57, 173.14, 173.17, 173.19, 173.20, 173.21, 173.23, 173.25, 173.26, 173.27, 173.28, 173.60, 173.99, 3721.027, 3721.12, 3721.16, 4751.03, 5119.22, and 5165.69)

The bill replaces the term "ombudsperson" with "ombudsman" throughout the Revised Code for programs within the programs governed by ODA, such as the State Long-term Care Ombudsman Program.

