
DEPARTMENT OF AGING

Board of Executives of Long-Term Services and Supports

- Expands eligibility for the consumer member of the Board of Executives of a Long-Term Services and Supports (BELTSS) to include the representative of a consumer in a long-term services and supports setting.
- Adds an exception to the prohibition that complaints made to BELTSS are confidential and not subject to discovery in any civil action, permitting BELTSS to use the information in administrative hearings and in court pursuant to the Rules of Evidence.

Nursing home quality initiative projects

- Requires the Department of Aging to provide infection prevention and control services as a quality initiative improvement project.

Residential care facility shared bathrooms (VETOED)

- Would have prohibited the Department from denying certification to a residential care facility seeking to participate in the Assisted Living Program on the basis that the facility permitted two residents to share a bathroom, so long as the shared bathroom arrangement met specified requirements (VETOED).
- Would have required the Department of Medicaid to seek a waiver from the U.S. Centers for Medicare and Medicaid Services (CMS) to implement this provision (VETOED).
- Would have prohibited the Department of Aging from implementing the above provision until CMS granted approval (VETOED).

Performance-based PASSPORT reimbursement

- Authorizes the Department to design a payment method for PASSPORT administrative agency operation that includes a pay-for-performance incentive component.

HHA and PCA training

- Prohibits the Department from requiring more hours of pre-service training and annual in-service training than required by federal law for home health aides (HHAs) providing services under the PASSPORT Program.
- Prohibits the Department from requiring more than 30 hours of pre-service training and six hours of annual in-service training for personal care aides (PCAs) providing services under the PASSPORT Program.
- Permits a licensed practical nurse to supervise an HHA or PCA providing services under the PASSPORT Program.

Long-term Care Ombudsman representative training

- Reduces training requirements for nonvolunteer representatives of the Office of the State Long-term Care Ombudsman.

Ohio Advisory Council for the Aging

- Specifies a new purpose for the Ohio Advisory Council for the Aging – to advise the Department as directed by the Governor and on the objectives of the federal Older Americans Act.
- Eliminates obsolete provisions regarding the date by which certain members must have been first appointed.

Golden Buckeye Card

- Expands the formats possible for the Golden Buckeye Card to include physical or electronic cards, as well as endorsements on cards for one or more programs.

Board of Executives of Long-Term Services and Supports

Membership

(R.C. 4751.02)

Regarding the Board of Executives of Long-Term Services and Supports (BELTSS), the act expands eligibility criteria for one member of the 11-member board. Continuing law requires one member to be a consumer of services offered in a long-term services and supports setting. Under the act, a person who represents such a consumer also is eligible for the consumer-member role.

Confidentiality of complaints

(R.C. 4751.30)

Ohio law prohibits complaints made to BELTSS from being subject to discovery in any civil action. The act deems the complaints as confidential, but establishes an exception to the confidentiality – it permits the complaints to be used by BELTSS in administrative hearings. Any entity that receives a complaint pursuant to an administrative hearing must maintain the complaint's confidentiality in the same manner as BELTSS. The act also permits confidential complaints to be admitted in a judicial proceeding, but only in accordance with the court's Rules of Evidence, and requires the court to take precautionary measures to ensure the confidentiality of any identifying information in the records.

Nursing home quality initiative projects

(R.C. 173.60)

Regarding the nursing home quality initiative program to promote person-centered care in nursing homes, the act requires the Department of Aging to include infection prevention and control efforts as a component of the program. It requires the quality initiative program component to include facility technical assistance including services, programs, and content expertise, subject to the availability of funds. The infection prevention and control component must be included in a list of quality improvement projects that nursing homes may use to meet inspection and licensure requirements.

Residential care facility shared bathrooms (VETOED)

(R.C. 173.394 (primary), 173.39, and 173.391; Section 333.340)

The Governor vetoed a provision that would have prohibited the Department from denying certification to a residential care facility seeking to participate in the Assisted Living Program on the basis that the facility permitted two residents to share a bathroom that includes a toilet, sink, and shower or bathtub. To be eligible for certification, a residential care facility that permitted two residents to share a bathroom would have been required to satisfy the following requirements:

- The shared full bathroom must have been accessible from the living quarters of each resident's unit, not required one resident to pass through another's living quarters, and allowed each resident to lock both bathroom doors while it was in use.
- In addition to the shared bathroom, the facility also must have offered the use of at least one other full bathroom that was accessible from a single door directly off of the hallway and not connected to any resident's individual unit.
- The bathrooms must have satisfied the accessibility requirements of the federal Americans with Disabilities Act.
- The facility must have informed residents of the shared bathroom arrangement prior to their admission and obtained the residents' written consent.

The Governor also vetoed a provision that would have required the Department of Medicaid, by December 2, 2023, to apply for a waiver from the U.S. Centers for Medicare and Medicaid Services (CMS) to implement the above-mentioned provisions. The Department of Aging could not have implemented these provisions until receiving CMS approval.

Performance-based PASSPORT reimbursement

(Section 209.20)

In order to improve health outcomes among populations served by PASSPORT administrative agencies, the act authorizes the Department to design a payment method for PASSPORT administrative agency operation that includes a pay-for-performance incentive component earned by a PASSPORT administrative agency when defined consumer and policy outcomes are achieved.

If the Department opts to implement the payment method, it must do so through rules adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119). Before filing a proposed rule with a pay-for-performance incentive component with the Joint Committee on Agency Rule Review, the Department must submit a report to the Joint Medicaid Oversight Committee outlining the payment method.

HHA and PCA training

(R.C. 173.525)

The act prohibits the Department from requiring personal care aides (PCAs) providing services under the PASSPORT Program to receive more than 30 hours of pre-service training and six hours of annual in-service training. The Department determines what training is acceptable. The Department may not require home health aides (HHAs) providing services under the PASSPORT Program to receive more pre-service training and annual training than required by federal law. The act also permits a licensed practical nurse to supervise an HHA or PCA, in addition to a registered nurse under continuing law.

Under federal regulations, HHAs providing services through Medicare or Medicaid must receive 75 hours of pre-service training and 12 hours of annual in-service training. Additionally, federal regulations require that an HHA providing Medicare or Medicaid services be supervised by a registered nurse or other appropriate professional, such as a physical therapist, speech-language pathologist, or occupational therapist.¹⁵

Long-term Care Ombudsman representative training

(R.C. 173.21)

The act reduces the number of specified training hours required for a nonvolunteer representative of the Office of the State Long-term Care Ombudsman. The reduction is accomplished as follows:

- Reducing hours of basic instruction required before the representative can handle cases without supervision, from 40 to 36;
- Eliminating a requirement that an additional 60 hours of instruction must be completed within the first 15 months of employment;
- Eliminating an internship of 20 hours that includes instruction and observation of basic nursing care and long-term care procedures;
- Eliminating observation of either a Department certification survey of a nursing facility or a licensing inspection of a residential facility by the Department of Mental Health and Addiction Services.

Instead, the act gives the Department of Aging the option to adopt rules regarding additional training, which may include an internship, in-service training, or continuing education. Under prior law, the Department was required to establish continuing education.

The act also eliminates law providing a training exemption for persons serving as an ombudsman for at least six months prior to June 11, 1990.

¹⁵ 42 Code of Federal Regulations (C.F.R.) 484.80.

Ohio Advisory Council for the Aging

(R.C. 173.03)

The act revises the law governing the Ohio Advisory Council for the Aging in two ways. First, it specifies that the Council's purpose is to advise the Department on the objectives of the federal Older Americans Act of 1965 and as directed by the Governor, rather than requiring the Council, as under prior law, to carry out its role as defined under the Older Americans Act. Second, it eliminates obsolete provisions regarding the deadline for initial appointments to the Council.

Golden Buckeye Card

(R.C. 173.06)

Regarding the Golden Buckeye Card program, the act authorizes new formats beyond a physical card, which was the only option prior to the act. Under the act, the Department may provide Golden Buckeye cards as physical or electronic cards, and the cards can be an endorsement on a card that includes one or more programs. Related to this change, the act eliminates a requirement that a card must contain the card holder's signature.