

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 409

Representatives Boyd, Carruthers

**Cosponsors: Representatives Howse, Lepore-Hagan, Weinstein, Smith, M.,
Miranda, Jarrells, Galonski, Brent**

A BILL

To enact sections 3721.27, 3721.271, 3721.272, 1
3721.273, 3727.25, 3727.26, 3727.27, and 3727.28 2
of the Revised Code to require hospitals and 3
long-term care facilities to establish patient 4
or resident protection advisory boards. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3721.27, 3721.271, 3721.272, 6
3721.273, 3727.25, 3727.26, 3727.27, and 3727.28 of the Revised 7
Code be enacted to read as follows: 8

Sec. 3721.27. Each long-term care facility shall establish 9
a resident protection advisory board not later than one hundred 10
eighty days after the effective date of this section or, if the 11
facility is not caring for residents on the effective date of 12
this section, one hundred eighty days after the facility begins 13
to care for residents. The facility shall select the following 14
as members of the advisory board: 15

(A) Three to five individuals with lived experiences as 16
residents or as family members of residents; 17

(B) One to three individuals with experience advocating on behalf of residents, which may include individuals employed by the facility to investigate or resolve complaints regarding resident care and treatment; 18
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(C) Two to four professionals with experience providing health care or personal care services directly to residents. 22
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Sec. 3721.271. (A) A resident protection advisory board established under section 3721.27 of the Revised Code shall do all of the following: 24
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(1) Subject to division (B) of this section, develop policies and procedures governing the restraint of residents; 27
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(2) If, prior to the establishment of the advisory board, the long-term care facility adopted policies and procedures governing the restraint of residents, review such policies and procedures and, if necessary, revise the policies and procedures subject to division (B) of this section; 29
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(3) Review any other facility policies and procedures governing resident care and treatment and, if necessary, revise the policies and procedures; 34
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(4) Review on a periodic basis policies and procedures adopted as described in division (D) of this section. 37
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(B) (1) When developing or revising policies and procedures governing the restraint of residents, the board shall do so in a manner consistent with division (A) (13) of section 3721.13 of the Revised Code. 39
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(2) In the event restraint is applied to a resident, the level or amount of restraint shall be based on and appropriate for the resident's age and medical condition. 43
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(3) When a facility relies on one or more members of a 46
police force to restrain or assist in the restraining of 47
residents, each member shall satisfy all of the following: 48

(a) Have completed training in trauma informed care; 49

(b) Be knowledgeable about best practices for resident 50
restraint, including those appropriate for a resident based on 51
the resident's age and medical condition; 52

(c) Have completed training conducted by the Ohio peace 53
officer training academy. 54

(C) To assist a resident protection advisory board in 55
performing the activities described in division (A) of this 56
section, a long-term care facility shall provide to the advisory 57
board copies of the facility's policies and procedures governing 58
resident restraint and resident care and treatment. 59

(D) As soon as practicable, a long-term care facility 60
shall adopt the policies and procedures developed or revised by 61
the advisory board under division (A) of this section. 62

(E) As soon as practicable following the adoption of 63
policies and procedures under division (D) of this section, each 64
long-term care facility shall submit to the department of health 65
copies of the policies and procedures. 66

Sec. 3721.272. (A) The department of health shall 67
establish a process by rule for a resident protection advisory 68
board to file, and for the department to consider, one or more 69
grievances regarding any of the following: 70

(1) Resident care and treatment, including the use of 71
resident restraints; 72

(2) A long-term care facility's failure to adopt policies 73

and procedures developed by an advisory board under section 74
3721.271 of the Revised Code; 75

(3) A long-term care facility's failure to submit to the 76
department of health policies and procedures adopted by the 77
hospital as described in section 3721.271 of the Revised Code. 78

An advisory board may file a grievance with the department 79
of health on behalf of an individual resident or resident's 80
family member. 81

(B) Except as provided in division (C) of this section, 82
each long-term care facility shall designate one or more 83
employees who provide resident services to do both of the 84
following: 85

(1) Accept a grievance raised by an individual resident or 86
resident's family member; 87

(2) File a grievance, including one made by an individual 88
resident or resident's family member, with the department of 89
health. 90

To ensure that an individual resident or resident's family 91
member may raise a grievance as described in division (B) of 92
this section at any time, the long-term care facility shall make 93
available on a twenty-four hours per day, seven days per week 94
basis an employee described in this division to receive such a 95
grievance and file the grievance with the department of health. 96

(C) In lieu of designating an employee as described in 97
division (B) of this section, each long-term care facility may 98
establish for the facility an ombudsperson to assist an 99
individual resident or resident's family in raising and 100
resolving a grievance. In the event a resolution cannot be 101
reached, the ombudsperson shall file the grievance with the 102

department of health. 103

(D) In a conspicuous location in the long-term care facility, each facility shall post a notice informing the public of the grievance process described in this section and specifying the contact information for the ombudsperson or one or more employees designated to receive grievances from individual residents or resident family members. The notice also shall be included in resident intake forms and made available on the internet web site maintained by the long-term care facility. 104
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(E) This section shall not be construed to limit the authority of a resident to file a grievance as described in section 3721.17 of the Revised Code. 112
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Sec. 3721.273. The department of health shall adopt rules as necessary to implement sections 3721.27 to 3721.272 of the Revised Code, including rules specifying the process for hearing grievances and imposing penalties for any violation of sections 3721.27 to 3721.272 of the Revised Code. All rules shall be adopted in accordance with Chapter 119. of the Revised Code. 115
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Sec. 3727.25. Each hospital shall establish a patient protection advisory board not later than one hundred eighty days after the effective date of this section or, if the hospital is not treating patients on the effective date of this section, one hundred eighty days after the hospital begins to treat patients. The hospital shall select the following as members of the advisory board: 121
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(A) Three to five individuals with lived experiences as patients or as family members of patients; 128
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(B) One to three individuals with experience advocating on behalf of patients, which may include individuals employed by 130
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the hospital to investigate or resolve complaints regarding 132
patient care and treatment; 133

(C) Two to four health care professionals with experience 134
providing health care services directly to patients. 135

Sec. 3727.26. (A) A patient protection advisory board 136
established under section 3727.25 of the Revised Code shall do 137
all of the following: 138

(1) Subject to division (B) of this section, develop 139
policies and procedures governing the restraint of patients; 140

(2) If, prior to the establishment of the advisory board, 141
the hospital adopted policies and procedures governing the 142
restraint of patients, review such policies and procedures and, 143
if necessary, revise the policies and procedures subject to 144
division (B) of this section; 145

(3) Review any other hospital policies and procedures 146
governing patient care and treatment and, if necessary, revise 147
the policies and procedures; 148

(4) Review on a periodic basis policies and procedures 149
adopted as described in division (D) of this section. 150

(B) (1) In the event restraint is applied to a patient, the 151
level or amount of restraint shall be based on and appropriate 152
for the patient's age and medical condition. 153

(2) When a hospital relies on one or more members of a 154
police force to restrain or assist in the restraining of 155
patients, each member shall satisfy all of the following: 156

(a) Have completed training in trauma informed care; 157

(b) Be knowledgeable about best practices for patient 158

restraint, including those appropriate for a patient based on 159
the patient's age and medical condition; 160

(c) Have completed training conducted by the Ohio peace 161
officer training academy. 162

(C) To assist a patient protection advisory board in 163
performing the activities described in division (A) of this 164
section, a hospital shall provide to the advisory board copies 165
of the hospital's policies and procedures governing patient 166
restraint and patient care and treatment. 167

(D) As soon as practicable, a hospital shall adopt the 168
policies and procedures developed or revised by the advisory 169
board under division (A) of this section. 170

(E) As soon as practicable following the adoption of 171
policies and procedures under division (D) of this section, each 172
hospital shall submit to the department of health copies of the 173
policies and procedures. 174

Sec. 3727.27. (A) The department of health shall establish 175
a process by rule for a patient protection advisory board to 176
file, and for the department to consider, one or more grievances 177
regarding any of the following: 178

(1) Patient care and treatment, including the use of 179
patient restraints; 180

(2) A hospital's failure to adopt policies and procedures 181
developed by an advisory board under section 3727.26 of the 182
Revised Code; 183

(3) A hospital's failure to submit to the department of 184
health policies and procedures adopted by the hospital as 185
described in section 3727.26 of the Revised Code. 186

An advisory board may file a grievance with the department 187
of health on behalf of an individual patient or patient's family 188
member. 189

(B) Except as provided in division (C) of this section, 190
each hospital shall designate one or more employees who provide 191
patient services to do both of the following: 192

(1) Accept a grievance raised by an individual patient or 193
patient's family member; 194

(2) File a grievance, including one made by an individual 195
patient or patient's family member, with the department of 196
health. 197

To ensure that an individual patient or patient's family 198
member may raise a grievance as described in division (B) of 199
this section at any time, the hospital shall make available on a 200
twenty-four hours per day, seven days per week basis an employee 201
described in this division to receive such a grievance and file 202
the grievance with the department of health. 203

(C) In lieu of designating an employee as described in 204
division (B) of this section, each hospital may establish for 205
the hospital an ombudsperson to assist a patient or patient's 206
family member in raising and resolving a grievance. In the event 207
a resolution cannot be reached, the ombudsperson shall file the 208
grievance with the department of health. 209

(D) In a conspicuous location in the hospital, each 210
hospital shall post a notice informing the public of the 211
grievance process described in this section and specifying the 212
contact information for the ombudsperson or one or more 213
employees designated to receive grievances from individual 214
patients or patient family members. The notice also shall be 215

included in patient intake forms and made available on the 216
internet web site maintained by the hospital. 217

Sec. 3727.28. The department of health shall adopt rules 218
as necessary to implement sections 3727.25 to 3727.27 of the 219
Revised Code, including rules specifying the process for hearing 220
grievances and imposing penalties for any violation of sections 221
3727.25 to 3727.27 of the Revised Code. All rules shall be 222
adopted in accordance with Chapter 119. of the Revised Code. 223