

As Introduced

136th General Assembly

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H. B. No. 809

Representatives Miller, M., Sweeney

Cosponsors: Representatives Piccolantonio, Brennan, Lett, Salvo, Ritter, Gross

To amend sections 3721.60, 3721.61, 3721.63, and 1
3721.65 of the Revised Code to make changes 2
regarding electronic monitoring of a resident's 3
room in a long-term care facility. 4

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

Section 1. That sections 3721.60, 3721.61, 3721.63, and 5
3721.65 of the Revised Code be amended to read as follows: 6

Sec. 3721.60. As used in sections 3721.60 to 3721.67 of 7
the Revised Code: 8

(A) "Attorney in fact" means a person designated as such 9
by a durable power of attorney for health care executed pursuant 10
to sections 1337.11 to 1337.17 of the Revised Code. 11

(B) "Electronic monitoring device" means a surveillance 12
instrument with a fixed position video camera or an audio 13
recording device, or a combination thereof, that is installed in 14
a resident's room and broadcasts or records activities or sounds 15
occurring in the room. 16

(C) "Guardian" has the same meaning as in section 2111.01 17
of the Revised Code. 18

(D) "Long-term care facility" has the same meaning as in 19
section 3721.21 of the Revised Code and also includes a 20
residential care facility as defined in section 3721.01 of the 21
Revised Code. 22

(E) "Resident" means an individual who resides in a long- 23
term care facility. 24

Sec. 3721.61. (A) Subject to section 3721.62 of the 25
Revised Code, a resident or a resident's guardian or attorney in 26
fact may authorize the installation and use of an electronic 27
monitoring device in the resident's room in a long-term care 28
facility. If a long-term care facility does not provide an 29
electronic monitoring device pursuant to division (D) of this 30
section, the resident, guardian, or attorney in fact may select 31
any electronic monitoring device that is compatible with the 32
internet access infrastructure and security protocols of the 33
facility. 34

(B) The installation and use of an electronic monitoring 35
device may be authorized only if both of the following 36
conditions are met: 37

(1) If a long-term care facility has prescribed a form 38
described in section 3721.63 of the Revised Code, the resident 39
or resident's guardian or attorney in fact completes the form 40
and submits it to the facility. 41

(2) ~~The~~ Subject to division (C) of this section, if a 42
long-term care facility does not provide an electronic 43
monitoring device pursuant to division (D) of this section, the 44
cost of the device and the cost of installing, maintaining, and 45
removing the device, other than the cost of electricity for the 46
device, is paid for by the resident or the resident's guardian 47

or attorney in fact. 48

~~(C)~~ (C) (1) Except as provided in division (D) of this 49
section, a long-term care facility may charge a fee for the 50
installation of an electronic monitoring device in a resident's 51
room. The in-room installation fee shall not exceed the cost of 52
the time and materials required for installation. 53

(2) A long-term care facility shall provide internet 54
access, to the extent internet access is available to the 55
facility, to a resident who wishes to have electronic 56
monitoring. 57

(3) Except as provided in division (D) of this section, a 58
long-term care facility may charge a fee to provide an internet 59
connection for the installation and use of an electronic 60
monitoring device in a resident's room that does not exceed the 61
cost of time and materials involved in installing the electronic 62
monitoring device. A long-term care facility shall not charge a 63
fee to any resident for the installation of the facility's 64
initial internet infrastructure or expansion of the facility's 65
internet infrastructure. 66

(a) For a resident of a nursing facility as defined in the 67
"Social Security Act," section 1919(a), 42 U.S.C. 1396r(a) who 68
is a medicaid recipient, the fee shall not exceed ten per cent 69
of the resident's monthly personal needs allowance calculated 70
pursuant to section 5163.33 of the Revised Code. 71

(b) For a resident of a residential care facility as 72
defined in section 3721.01 of the Revised Code who is enrolled 73
in the medicaid-funded component of the assisted living program, 74
the fee shall not exceed ten per cent of the resident's monthly 75
personal needs allowance as established for that component. 76

(D) A long-term care facility may choose to provide an 77
electronic monitoring device to a resident if the resident or 78
the resident's guardian or attorney in fact authorizes the 79
installation and use of an electronic monitoring device in the 80
resident's room. 81

(1) A long-term care facility that chooses to provide an 82
electronic monitoring device shall respect the resident's, 83
guardian's, or attorney in fact's preference for a fixed 84
position video camera, an audio recording device, or a 85
combination thereof. 86

(2) A long-term care facility that chooses to provide an 87
electronic monitoring device to a resident shall not charge any 88
fee for the installation and use of the device, including any 89
fee to provide an internet connection for the installation and 90
use of the device in the resident's room. 91

(E) A resident who has authorized the installation and use 92
of an electronic monitoring device may withdraw that 93
authorization at any time. 94

Sec. 3721.63. A long-term care facility may prescribe a 95
form for use by a resident or resident's guardian or attorney in 96
fact seeking to authorize the installation and use of an 97
electronic monitoring device in the resident's room in a long- 98
term care facility. If a long-term care facility prescribes a 99
form, it shall, at a minimum, include all of the following: 100

(A) An explanation of sections 3721.60 to 3721.67 of the 101
Revised Code; 102

(B) An acknowledgment that the resident or resident's 103
guardian or attorney in fact has consented to the installation 104
and use of the device in the resident's room; 105

(C) In the case of a resident who lives in a room with 106
another resident, an acknowledgment that the other resident or 107
other resident's guardian or attorney in fact has consented to 108
the installation and use of the device and a description of any 109
conditions placed on that consent pursuant to division (B) (2) of 110
section 3721.62 of the Revised Code; 111

(D) A section for providing the facility with information 112
regarding the type, function, and use of the device selected by 113
the resident or the resident's guardian or attorney in fact to 114
be installed and used; 115

(E) A section stating that the facility is released from 116
liability in any civil or criminal action or administrative 117
proceeding for a violation of the resident's right to privacy in 118
connection with using the device. 119

Sec. 3721.65. No ~~person or resident~~ long-term care 120
facility shall be denied do either of the following: 121

(A) Prohibit the installation and use of an electronic 122
monitoring device that has two-way audio and video communication 123
abilities; 124

(B) Deny admission to or ~~discharged~~ discharge from a long- 125
term care facility or otherwise ~~discriminated~~ discriminate or 126
~~retaliated~~ retaliate against a person or resident because of the 127
decision to authorize the installation and use of an electronic 128
monitoring device in a resident's room in the facility. 129

Section 2. That existing sections 3721.60, 3721.61, 130
3721.63, and 3721.65 of the Revised Code are hereby repealed. 131