As Introduced

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Representatives Miller, M., Sweeney
Cosponsors: Representatives Piccolantonio, Brennan, Lett, Salvo, Ritter, Gross

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

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

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

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

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

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

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

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

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

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

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

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

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

or attorney in fact.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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