

Proponent Testimony for House Bill 120 (Fraizer, Richardson)

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Chairperson Manchester, Vice Chair Cutrona, Ranking Member Liston, and Members of the House Families, Aging and Human Services Committee, thank you for the opportunity to provide written testimony in support of House Bill 120 *Permitting Compassionate Care Visits in Long-Term Care Facilities during COVID-19*. My name is Joe Russell and I am the Executive Director of the Ohio Council for Home Care and Hospice (OCHCH).

OCHCH represents over 600 home care, hospice, and palliative care agencies across the State of Ohio. Our members care for a variety of individuals ranging from medically fragile children, those who wish to recover at home from elective surgeries, mental health and addiction services, older Ohioans that wish to age in place, and many more.

COVID-19 has presented an abundance of unforeseen circumstances that both home health and hospice agencies have had to navigate. While some issues have been successfully resolved, one issue that remains outstanding is the ability of contracted health care providers that work outside of the facility to access their patients that reside in a facility.

When the Ohio Department of Health (ODH) issued directives that restricted access to facilities, many patients of skilled nursing facilities (SNF) and assisting living facilities (ALF) who received care through a home care agency or hospice program were prevented from using those providers. Every situation is different, but we know that some people have died without getting an option for hospice care as required by federal law, while others were unable to receive their "last rites" before death.

We have consistently heard the following testimonies from both providers and families:

"Employees will not be permitted to visit our patients unless (ALF/SNF) has a copy of the negative COVID testing. This testing has to be done weekly and they do not administer the COVID test to outside employees. We currently have 2 patients that we see there. One is seen monthly for medi-port flush. The other is one that was recently opened for nursing and PT (physical therapy)."

"(ALF) is not allowing hospice providers to come into their facility. (ALF) will only allow telehealth visits even for the admission process."

"We have had a number of changes in designated hospices because they are only allowing "one hospice" in during COVID, even though the patients freely elected us. This is extremely frustrating. We had one facility tell the family they should use their hospice because their aides are allowed in the building and ours are not."

"Our speech therapist has had issues with staff not letting her in, even after management told us what door to use."

These are just a few experiences that we have heard as an association regarding the

limitation and denied access to patients that reside in a facility. Nevertheless, despite clarifying guidance from the ODH, CMS, and various associations that essential workers *must* be allowed access to a facility to see their patients, this problem has continued. While we recognize the importance of the risk of spread, especially in a facility-based environment, it is important that these individuals continue to receive their care and their full hospice benefit.

The Centers for Medicare and Medicaid Services (CMS) has given the guidance that: *“current health care workers who are not employees of the facility but provide direct care to the facility’s residents, such as hospice workers, Emergency Medical Services (EMS) personnel, dialysis technicians, laboratory technicians, radiology technicians, social workers, clergy etc., **must be permitted** to come into the facility as long as they are not subject to a work exclusion due to an exposure to COVID-19 or show signs or symptoms of COVID-19 after being screened.”*¹

CMS has provided guidance further expanding and clarifying their previous guidance that, *““Facility staff” (for skilled nursing facilities) includes employees, consultants, **contractors**, volunteers, and caregivers who provide care and services to residents on behalf of the facility, and students in the facility’s nurse aide training programs or from affiliated academic institutions.”*²

Clearly, the intent of state and federal directives is to allow caretakers and health care professionals into the facilities to provide care, not further restrict such access. Simply put, any facility denying home care and hospice providers access to the patients they are contracted to serve are either practicing outside the scope of their license or are denying care to patients. Either situation is unacceptable.

The Ohio Council for Home Care and Hospice (OCHCH) supports HB120, which would permit essential caregivers to enter long-term care facilities to provide care and support to a resident in a facility, and would establish criteria for those visits during the COVID-19 state of emergency. While we are concerned that the lack of an enforcement provision limits the effectiveness of the bill, we also appreciate the work of the stakeholders and bill sponsors to get us this far.

We commend Representative Richardson and Representative Fraizer for introducing this important piece of legislation. By codifying these requirements it could allow for our agencies to be granted access to a facility where they can continue to care for their patients, and ensure that individuals are receiving their hospice benefit and are given their last rites. I would be happy to answer questions.

¹ <https://www.cms.gov/files/document/qso-20-39-nh.pdf>

² <https://www.cms.gov/files/document/qso-20-38-nh.pdf>