



**Ohio Hospital Association
Ohio House Health Provider Services Committee
Interested Party Testimony
April 2, 2024**

Chairman Cutrona, Vice Chair Gross, Ranking Member Somani and members of the House Health Provider Services Committee, on behalf of the Ohio Hospital Association, thank you for the opportunity to provide interested party testimony on Substitute House Bill 236.

As we navigate how best to move forward with lessons learned from the COVID-19 pandemic, Ohio hospitals recognize just how important it is for a patient to feel seen, heard and cared for both physically and emotionally during their time with us.

We would like to voice our sincere thanks to Representatives Lear and Miller for their willingness to engage in a meaningful way on this legislation. We are very grateful for the time, attention and efforts made to better understand the concerns of the hospital community.

Additionally, we recognize and appreciate that changes were made to allay those concerns. However, we felt it important to note that we still believe there are additional changes that should be considered before passing the legislation in its current form.

OHA has consistently stressed that maintaining some flexibility for hospital staff as they provide needed care in ever-changing and unexpected circumstances is necessary. During our interested party meetings, we discussed the difficulty in trying to identify each and every situation that could arise while a patient's advocate is present which illustrates this need for flexibility. Patient advocate policies are an art, not a science and making hard and fast rules about how and when a patient's advocate can be present should be left to some discretion.

As we have previously shared with the bill sponsors, our outstanding issues with Sub. HB 236 can be found below.

We remain committed to finding compromises that will accomplish the bill's goals while also ensuring the safety of patients, advocates and hospital caregivers. To that end, we continue to support the following suggested changes to the bill:

1. Revise line 131 to read **“the congregate care setting shall make every reasonable effort to allow the patient or resident physical access to the advocate in the care setting”**
2. Lines 181—201 remain of very serious concern, particularly as it relates to a highly infectious disease such as Ebola or other diseases that require a protocol that goes well behind any standard isolation or PPE protocol. Further, we have remaining questions about the logistics surrounding the care, housing and nutrition that hospitals would be required to provide for the advocate. There is a cascading list of “what ifs” that could

arise here and to date these questions have gone unanswered. In line with our overall efforts to achieve some measure of flexibility and discretion, we suggest amending line 197—199 to read **“then every reasonable effort shall be made to allow a patient's advocate to quarantine with the patient at the hospital or facility”**. This would allow for medical personnel to exercise discretion in situations similar to those raised above. Another suggestion to consider would be to include language that specifies if a patient or the facility is in quarantine, the patient must be given access to their advocate via the language in lines 157—162 re: off-site access.

If any changes are made to the existing provisions of the bill, the corresponding additions or deletions would need to be reflected in Sec. 3792.06 which outlines the “Never Alone” information sheet to be created by the Ohio Department of Health. Additionally, we would request notice be sent to hospitals from ODH whenever changes are made to the information sheet so that we can comply with the bill by providing the most updated version to patients.

On the legal aspects of the bill, we have outstanding questions surrounding situations in which a health care power of attorney is an individual not designated as the patient's advocate and what role each plays in directing the patient's care, especially if the power of attorney and advocate do not agree.

Finally, we must again state our objection to creating new private rights of action – a hospital is required to follow all state and federal laws and must attest to this in order to run its operations. Creating a new private right of action simply is not necessary and has the potential to lead to an increase in frivolous lawsuits.

The very worthy intent of Sub. HB 236 is to ensure a patient feels safe, supported and not alone. These are all goals supported by Ohio's hospitals and remain at the forefront of all we do.

We look forward to finding common sense solutions that achieve our shared goals as we care for our patients and your constituents.

Chairman Cutrona, Vice Chair Gross, Ranking Member Somani and members of the House Health Provider Services Committee, we appreciate your time and consideration.