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November 25, 2019

**RECEIVED**

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**Ohio Attorney General  
Constitutional Offices Section**

Via Hand Delivery

The Honorable Dave Yost  
Ohio Attorney General  
30 E. Broad Street  
Columbus, Ohio 43215

***Re: Nursing Facility Patients' Bill of Rights (also known as Carolyn's Law)***

Dear Attorney General Yost:

Pursuant to R.C. 3519.01(A), and on behalf of petitioners who seek to propose a constitutional amendment by initiative petition, I am hereby filing a petition to approve the summary of a statewide initiative petition titled the Nursing Facility Patients' Bill of Rights (also known as Carolyn's Law). The petition contains 1,600 signatures of electors on 153 part-petitions and the summary and full text of the amendment to be proposed. A chart containing the number of part-petitions and signatures is attached to this correspondence for your reference.

Please contact me if you have any questions. Thank you.

Very truly yours,



J. Corey Colombo

Encls.

County: Cuyahoga

Number: 001

## INITIATIVE PETITION

**To the Attorney General of Ohio:** Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

### TITLE

Nursing Facility Patients' Bill of Rights

### SUMMARY

This Amendment would add section 12a to Article XV of the Ohio Constitution to require certain staff-to-patient ratios in nursing facilities and require certain minimum daily amounts of direct care to nursing facility patients. In addition to other provisions, the Amendment would:

- Provide that the provisions of the Amendment adopted by the voters will also be known as Carolyn's Law.
- Require the Ohio Department of Health or its successor to provide by regulation for the following:
  - That no nursing facility, or employee or agent of a nursing facility, shall cause harm to patients due to neglect, mistreatment, abuse, or willful intent.
  - That in each skilled nursing facility, and regardless of the daily patient census, there shall be at least 1 licensed nurse on duty at any time for every 5 patients with higher medical acuity needs, at least 1 certified nurse aide on duty at any time for every 6 patients with higher medical acuity needs, and at least 1 licensed nurse and 1 certified nurse aide on duty at any time for every 8 patients with lower medical acuity needs.
  - That in each nursing facility, except for skilled nursing facilities and regardless of the daily patient census, there shall be at least one 1 licensed nurse and 1 certified nurse aide on duty at any time for every 8 patients with higher medical acuity needs, and at least 1 licensed nurse and 1 certified nurse aide on duty at any time for every 10 patients with lower medical acuity needs.
  - That each skilled nursing facility and inpatient rehabilitation facility shall provide each patient, regardless of medical acuity needs, with at least a combined daily average of 4.8 hours of direct care, including an average of 3 hours of direct care from certified nurse aides and an average of 1.8 hours of direct care from licensed nurses.
  - That each nursing home, short-term care facility, and long-term care facility shall provide each patient with lower medical acuity needs with a combined daily average of 4.1 hours of direct care, including an average of 2.8 hours of direct care from nurse aides and an average of 1.3 hours of direct care from licensed nurses.
  - That each nursing home, short-term care facility, and long-term care facility shall provide each patient with higher medical acuity needs with a combined daily average of 4.5 hours of direct care, including an average of 3 hours of direct care from nurse aides and an average of 1.5 hours of direct care from licensed nurses.
  - That each nursing facility shall have at least 1 licensed nurse and 1 certified nurse aide on duty at any time who are assigned to assist other nurses and nurse aides, as needed, in providing care to patients, and that such licensed nurse and certified nurse aide may count toward the minimum staff-to-patient ratios required by this Amendment.
  - That, for purposes of this Amendment, patients' medical acuity needs shall be determined by the nursing facility in accordance with standards set by the Ohio Department of Health or its successor.
  - That each nursing facility shall employ or contract with a patient advocate to address the needs and issues of patients and to increase patient satisfaction.
  - That each nursing facility shall implement protocols requiring as prompt a response as possible to a call light signal from a patient, if the facility utilizes such technology.
  - That each nursing facility shall implement protocols requiring hourly rounds based on each patient's medical acuity needs to ensure that safe, quality, and compassionate care is provided.
  - That each nursing facility shall provide notice in their facilities informing staff of the standards of care required by the Amendment, laws and regulations issued pursuant to the Amendment, and other laws and regulations governing nursing facilities.
  - The development and utilization of competency tests, personal attribute tests, simulations, and trainings to exemplify extraordinary nurse aides in meeting the expectations of providing safe, quality, and compassionate care to patients in nursing facilities.

- That each nursing facility shall promptly identify and correct any staffing or practice deficiencies that have led to or caused any harm, damage, or debilitating injury to patients due to neglect, mistreatment, abuse, or willful intent.
- The imposition of civil and criminal penalties on nursing facilities, and employees or agents of nursing facilities for noncompliance with this Amendment or with the laws and regulations issued pursuant to the Amendment, and that such penalties may include, but are not limited to, fines, requiring additional education or training, temporary or permanent suspension of a license or certification, termination from employment, and reporting of conduct to regulatory entities and law enforcement.
- Require the Ohio Board of Nursing or its successor to provide by regulation for the following:
  - The development and utilization of competency tests, personal attribute tests, simulations, and trainings to exemplify extraordinary nurses in meeting the expectations of providing safe, quality, and compassionate care to patients in nursing facilities.
  - The imposition of civil and criminal penalties on licensed nurses for noncompliance with this Amendment or the laws and regulations issued pursuant to this Amendment, and that such penalties may include but are not limited to fines, requiring additional education or training, temporary or permanent suspension of a license or certification, termination from employment, and reporting of conduct to regulatory entities law enforcement.
- Provide that the Amendment shall be liberally construed to effectuate its purpose.
- Provide it shall take effect at the earliest date allowed by the Constitution, and require the Ohio Department of Health, or its successor, and the Ohio Board of Nursing, or its successor, to provide that the regulations required by the Amendment are in effect within one year of the Amendment's effective date.
- Provide that all provisions of the Amendment are severable, and that the Amendment shall supersede all conflicting state laws and regulations.
- Provide that any provision of the Amendment that is not contrary to the provision of a separate initiative that receives a higher total vote on the same statewide ballot is valid.

The Amendment contains certain declarations and findings that are relevant to the Amendment, and defines "abuse," "acuity needs," "adequately-trained," "certified nurse aide," "damage," "debilitating injury," "direct care," "harm," "highly-skilled," "inpatient rehabilitation facility," "licensed nurse," "long-term care facility," "mistreatment," "neglect," "nursing facility," "nursing home," "short-term care facility," "skilled nursing facility," and "willful intent."

### **CERTIFICATION OF THE ATTORNEY GENERAL**

The certification of the Attorney General, pursuant to Ohio Revised Code § 3519.01(A), will be inserted when it is provided. This initial petition must be submitted with at least one thousand (1,000) valid signatures of Ohio electors before the Attorney General will issue that certification.

### **COMMITTEE TO REPRESENT THE PETITIONERS**

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Jesse J. Ruffin, Jr.  
 Carmen M. Ruffin  
 Jesse J. Ruffin, III  
 Jimmie L. Pope  
 Michele D. Hill

5054 Philip Street, Maple Heights, Ohio 44137  
 3701 Washington Boulevard, University Heights, Ohio 44118  
 4641 Derbyshire Drive, North Randall, Ohio 44128  
 13226 Forest Hill Avenue, East Cleveland, Ohio 44112  
 16000 Terrace Road, Apartment 302, East Cleveland, Ohio 44112

## FULL TEXT OF PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that the Constitution of Ohio is hereby amended to add Section 12a to Article XV to read as follows:

### Section 12a. Nursing Facility Patients' Bill of Rights

#### **(A) Carolyn's Law.**

The provisions of this Section adopted by the People of the State of Ohio shall also be known as Carolyn's Law.

#### **(B) Findings, Declarations, and Purpose.**

The People of the State of Ohio find and declare that patients of nursing facilities, which include nursing homes, skilled nursing facilities, and inpatient rehabilitation facilities, are an especially vulnerable group of individuals that require safe, quality, and compassionate medical care every day. The People of the State of Ohio also find and declare that adequate nurse and nurse aide staffing is key to providing safe patient care and is key to nurse and nurse aide retention. Further, it is a vital state interest that nursing facilities providing such care have enough highly-skilled and adequately-trained nurses and nurse aides to serve their patients in order to reduce medical errors and to prevent harm, damage, and debilitating injuries caused by neglect, mistreatment, abuse, or willful intent. The purpose of this Section is to ensure that nursing facilities provide such safe, quality, and compassionate medical care to their patients, and to hold those accountable who cause harm to patients.

#### **(C) Ensuring Safe, Quality, and Compassionate Medical Care.**

The Ohio Department of Health or its successor shall provide by regulation for the following:

- (1) No nursing facility, or employee or agent of a nursing facility, shall cause harm to patients due to neglect, mistreatment, abuse, or willful intent.
- (2) Nursing facilities shall maintain the following minimum staff-to-patient ratios regardless of the daily patient census:
  - (a) In each skilled nursing facility, there shall be at least one (1) licensed nurse on duty at any time for every five (5) patients with higher medical acuity needs, at least one (1) certified nurse aide on duty at any time for every six (6) patients with higher medical acuity needs, and at least one (1) licensed nurse and one (1) certified nurse aide on duty at any time for every eight (8) patients with lower medical acuity needs.
  - (b) In each nursing facility, except for skilled nursing facilities, there shall be at least one (1) licensed nurse and one (1) certified nurse aide on duty at any time for every eight (8) patients with higher medical acuity needs, and at least one (1) licensed nurse and one (1) certified nurse aide on duty at any time for every ten (10) patients with lower medical acuity needs.
- (3) Nursing facilities shall provide each patient with the following minimum amounts of direct care daily:
  - (a) Each skilled nursing facility and inpatient rehabilitation facility shall provide each patient, regardless of medical acuity needs, with at least a combined daily average of 4.8 hours of direct

care, including an average of 3 hours of direct care from certified nurse aides and an average of 1.8 hours of direct care from licensed nurses.

(b) Each nursing home, short-term care facility, and long-term care facility shall provide each patient with lower medical acuity needs with a combined daily average of 4.1 hours of direct care, including an average of 2.8 hours of direct care from nurse aides and an average of 1.3 hours of direct care from licensed nurses.

(c) Each nursing home, short-term care facility, and long-term care facility shall provide each patient with higher medical acuity needs with a combined daily average of 4.5 hours of direct care, including an average of 3 hours of direct care from nurse aides and an average of 1.5 hours of direct care from licensed nurses.

(4) Each nursing facility shall have at least one licensed nurse and one certified nurse aide on duty at any time who are assigned to assist other nurses and nurse aides, as needed, in providing care to patients; such licensed nurse and certified nurse aide may count toward the minimum staff-to-patient ratios required by subdivision (C)(2) of this Section.

(5) Each nursing facility shall employ or contract with a patient advocate to address the needs and issues of patients and to increase patient satisfaction.

(6) Each nursing facility shall implement protocols requiring as prompt a response as possible to a call light signal from a patient, if the facility utilizes such technology.

(7) Each nursing facility shall implement protocols requiring hourly rounds based on each patient's medical acuity needs to ensure that safe, quality, and compassionate care is provided.

(8) That for purposes of this Section, patients' medical acuity needs shall be determined by the nursing facility in accordance with standards set by the Ohio Department of Health or its successor.

(9) Each nursing facility shall provide notice in their facilities informing staff of the standards of care required by this Section, laws and regulations issued pursuant to this Section, and other laws and regulations governing nursing facilities.

#### **(D) Ensuring Well-Trained Care Providers.**

(1) The Ohio Board of Nursing or its successor shall provide by regulation for the development and utilization of competency tests, personal attribute tests, simulations, and trainings to exemplify extraordinary nurses in meeting the expectations of providing safe, quality, and compassionate care to patients in nursing facilities.

(2) The Ohio Department of Health or its successor shall provide by regulation for the development and utilization of competency tests, personal attribute tests, simulations, and trainings to exemplify extraordinary nurse aides in meeting the expectations of providing safe, quality, and compassionate care to patients in nursing facilities.

#### **(E) Ensuring Accountability.**

(1) The Ohio Department of Health or its successor shall provide by regulation for the following:

(a) Each nursing facility shall promptly identify and correct any staffing or practice deficiencies that have led to or caused any harm, damage, or debilitating injury to patients due to neglect, mistreatment, abuse, or willful intent.

(b) Imposition of civil and criminal penalties on nursing facilities, and employees or agents of nursing facilities for noncompliance with this Section or with the laws and regulations issued pursuant to this Section. Such penalties may include but are not limited to fines, requiring additional education or training, temporary or permanent suspension of a license or certification, termination from employment, and reporting of conduct to regulatory entities and law enforcement.

(2) The Ohio Board of Nursing or its successor shall provide by regulation for the imposition of civil and criminal penalties on licensed nurses for noncompliance with this Section or the laws and regulations issued pursuant to this Section. Such penalties may include but are not limited to fines, requiring additional education or training, temporary or permanent suspension of a license or certification, termination from employment, and reporting of conduct to regulatory entities law enforcement.

**(F) Definitions.**

As used in this Section:

- (1) "Abuse" means a willful infliction of injury, intimidation, unreasonable confinement or punishment resulting in physical harm, pain, or emotional distress.
- (2) "Acuity needs" means the intensity of nursing care required by a patient.
- (3) "Adequately-trained" means being sufficient, prepared and necessary for some requirement or purpose.
- (4) "Certified nurse aide" means an individual who holds a current, valid certification from the state to be eligible to work as a state-tested nurse aide
- (5) "Damage" means physical harm causing impairment in one's normal function.
- (6) "Debilitating injury" means being seriously affected in one's ability or strength to carry on with regular activities.
- (7) "Direct care" means giving assistance to patients who are sick, injured, fragile, or are mentally or physically disabled.
- (8) "Harm" means physical injury, including with deliberate infliction.
- (9) "Highly-skilled" means having specialized training, knowledge and experience in order to carry out complex physical and mental tasks.
- (10) "Inpatient rehabilitation facility" means a facility substantially similar to a "freestanding inpatient rehabilitation facility" or "inpatient rehabilitation facility" as such terms have been and continue to be defined by the General Assembly and the Ohio Department of Health or its successor.

(11) "Licensed nurse" means an individual who holds a current, valid license issued by the state that authorizes the practice of nursing. It includes, but is not limited to, registered nurses and licensed practical nurses.

(12) "Long-term care facility" means a facility that provides care for patients that require hands-on direct care and supervision, with or without requiring skilled care, and for a period of more than thirty days in duration. It does not include assisted-living facilities.

(13) "Mistreatment" means inappropriate treatment or exploitation of a patient.

(14) "Neglect" means failure of the facility and its employees to provide goods and services deemed necessary to avoid physical harm, pain, or emotional distress.

(15) "Nursing facility" means a nursing home, skilled nursing facility, inpatient rehabilitation facility, short-term care facility, or long-term care facility as such terms are defined herein.

(16) "Nursing home" means a facility substantially similar to a "nursing home," as such term has been and continues to be defined by the General Assembly and the Ohio Department of Health or its successor.

(17) "Short-term care facility" means a facility that provides care to a patient whose stay will last in duration for up to thirty days while the patient recovers from an illness, injury, or surgery.

(18) "Skilled nursing facility" means a facility substantially similar to a "skilled nursing facility," as such term has been and continues to be defined by the General Assembly and the Ohio Department of Health or its successor.

(19) "Willful intent" means that an individual must have acted in a deliberate manner to inflict injury or harm.

**(G) Liberal Construction.**

This Section shall be liberally construed to effectuate its purpose.

**(H) Conflicting Ballot Issues.**

Any provision of this Section that is not contrary to the provisions of a separate initiative that receives a higher total vote on the same statewide ballot is valid.

**(I) Severability and Conflicting Laws.**

All provisions of this Section shall be severable and shall supersede all conflicting state laws and regulations.

**(J) Effective Dates.**

This Section shall take effect at the earliest date allowed by the Constitution, and the Ohio Department of Health, or its successor, and the Ohio Board of Nursing, or its successor, shall provide that the regulations required herein are in effect within one year of this Section's effective date.



STATEMENT OF CIRCULATOR

I, JESSE J. RUFFIN, Jr, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of 32 electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of same. I am employed to circulate this petition by

(Name and address of employer). (The preceding sentence shall be completed as required by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.)

I further declare under penalty of election falsification that I witnessed the affixing of every signature to the foregoing petition paper, that all signers were to the best of my knowledge and belief qualified to sign, and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

  
(Signed)

5054 Philip Street  
(Address of circulator's permanent residence)  
Number and Street, Road or Rural Route

Maple Heights  
City, Village or Township

Ohio                      44137  
State                                      Zip Code

**WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY  
OF A FELONY OF THE FIFTH DEGREE.**