

HB 1709 -- AUTHORIZED MONITORING IN CERTAIN FACILITIES

SPONSOR: Schnelting

This bill requires long-term care facilities to maintain and operate digital surveillance on their premises, feature continuous, 24-hour video and audio monitoring and recording, and ensure they are placed in a way that ensures the exterior of each entryway into every resident's room is visible and monitored.

Facilities are required to maintain recordings for a period of time, as to be determined by rule of the Department of Health and Senior Services. Within 5 business days of receiving a request, the facility is required to provide a copy of the audio or video recording to a resident or the resident's family member, guardian, or legal representative who has requested the footage in order to investigate alleged or actual deficient care, abuse, neglect, or wrongful death of a resident. The facility is prohibited from editing the footage except to blur the face and body of any unclothed resident who is not subject to the request.

Any person who requests a copy of footage may bring a civil action in circuit court against a facility that fails to maintain and operate a digital surveillance system, or that fails to provide a copy of recorded footage as required. Any video or audio recording may be admitted into evidence in a civil, criminal, or administrative proceeding, provided certain conditions are met as specified in the bill.

No facility shall be liable for activity or action arising out of the use, by any resident or a resident's family member, guardian, or legal representative, of any copy of a video or audio recording. Moreover, no facility shall be liable for a violation of the Health Insurance Portability and Accountability Act (HIPAA) or any resident's right to privacy arising out of the required operation of the digital surveillance system.

Except in cases of abuse or neglect, no person shall release any copy of a video or audio recording that has been obtained without getting written permission of the resident or his or her family member, guardian, or legal representative, as well as the facility.