Ohio Revised Code

Section 2903.341 Patient endangerment.

Effective: October 12, 2016

Legislation: House Bill 158 - 131st General Assembly

(A) As used in this section:

(1) "Developmental disabilities caretaker" means any developmental disabilities employee or any person who assumes the duty to provide for the care and protection of a person with a developmental disability on a voluntary basis, by contract, through receipt of payment for care and protection, as a result of a family relationship, or by order of a court of competent jurisdiction. "Developmental disabilities caretaker" includes a person who is an employee of a care facility and a person who is an employee of an entity under contract with a provider. "Developmental disabilities caretaker" does not include a person who owns, operates, or administers a care facility or who is an agent of a care facility unless that person also personally provides care to a person with a developmental disability.

(2) Developmental disabilities employee" has the same meaning as in section 5123.50 of the Revised Code.

(3) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(B) No developmental disabilities caretaker shall create a substantial risk to the health or safety of a person with a developmental disability. A developmental disabilities caretaker does not create a substantial risk to the health or safety of a person with a developmental disability under this division when the developmental disabilities caretaker treats a physical or mental illness or defect of the person with a developmental disability by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(C) No person who owns, operates, or administers a care facility or who is an agent of a care facility shall condone, or knowingly permit, any conduct by a developmental disabilities caretaker who is employed by or under the control of the owner, operator, administrator, or agent that is in violation of division (B) of this section and that involves a person with a developmental disability who is under the care of the owner, operator, administrator, or agent. A person who relies upon treatment by

spiritual means through prayer alone, in accordance with the tenets of a recognized religious denomination, shall not be considered endangered under this division for that reason alone.

(D)(1) It is an affirmative defense to a charge of a violation of division (B) or (C) of this section that the actor's conduct was committed in good faith solely because the actor was ordered to commit the conduct by a person to whom one of the following applies:

(a) The person has supervisory authority over the actor.

(b) The person has authority over the actor's conduct pursuant to a contract for the provision of services.

(2) It is an affirmative defense to a charge of a violation of division (C) of this section that the person who owns, operates, or administers a care facility or who is an agent of a care facility and who is charged with the violation is following the individual service plan for the involved person with a developmental disability or that the admission, discharge, and transfer rule set forth in the Administrative Code is being followed.

(3) It is an affirmative defense to a charge of a violation of division (C) of this section that the actor did not have readily available a means to prevent either the harm to the person with a developmental disability or the death of such a person and the actor took reasonable steps to summon aid.

(E)(1) Except as provided in division (E)(2) or (E)(3) of this section, whoever violates division (B) or (C) of this section is guilty of patient endangerment, a misdemeanor of the first degree.

(2) If the offender previously has been convicted of, or pleaded guilty to, a violation of this section, patient endangerment is a felony of the fourth degree.

(3) If the violation results in serious physical harm to the person with a developmental disability, patient endangerment is a felony of the third degree.