

# AN ACT

3902.60 and  
3902.61

To enact sections ~~3902.50 and 3902.51~~ of the Revised Code to prohibit "fail first" coverage of drugs used to treat stage four advanced metastatic cancer.

3902.60 and  
3902.61

*Be it enacted by the General Assembly of the State of Ohio:*

3902.60

SECTION 1. That sections ~~3902.50 and 3902.51~~ of the Revised Code be enacted to read as follows:

3902.60 and  
3902.61

Sec. ~~3902.50~~. As used in sections ~~3902.50 and 3902.51~~ of the Revised Code:

(A) "Associated conditions" means the symptoms or side effects of stage four advanced metastatic cancer, or the treatment thereof, which would, in the judgment of the health care practitioner in question, jeopardize the health of a covered individual if left untreated.

(B) "Covered person," "health benefit plan," and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code.

(C) "Stage four advanced metastatic cancer" means a cancer that has spread from the primary or original site of the cancer to nearby tissues, lymph nodes, or other areas or parts of the body.

3902.61

Sec. ~~3902.51~~. (A) Notwithstanding section 3901.71 and sections 3901.831 to 3901.833 of the Revised Code, a health benefit plan issued, delivered, or renewed in this state on or after the effective date of this section that directly or indirectly covers the treatment of stage four advanced metastatic cancer shall not make coverage of a drug that is prescribed to treat such cancer or associated conditions dependent upon a covered person demonstrating either of the following:

(1) Failure to successfully respond to a different drug;

(2) A history of failing to respond to a different drug or drugs.

(B) Division (A) of this section applies only to uses of such drug or drugs that are consistent with either of the following:

(1) An indication approved by, or described in, as applicable, either of the following for the treatment of stage four advanced metastatic cancer:

(a) The United States food and drug administration;

(b) The national comprehensive cancer network drugs and biologics compendium.

(2) The best practices for the treatment of stage four advanced metastatic cancer, as supported by peer-reviewed medical literature.

(C) A violation of this section is an unfair and deceptive practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code. \*

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the 23RD day of DECEMBER, A. D. 2020.



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*Secretary of State.*

File No. 62

Effective Date MARCH 24, 2021

\*This certification has required my designation of the following in the left-hand margin as a proper code section number:

3902.60 and 3902.61

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Director, Legislative Service Commission

**AN ACT**

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To enact sections ~~3902.50 and 3902.51~~ of the Revised Code to prohibit "fail first" coverage of drugs used to treat stage four advanced metastatic cancer.

*Introduced by*

Senators Hackett, Craig

Cosponsors: Senators Brenner, Kunze, Lehner, Thomas, Williams, Yuko, Schuring, Antonio, Blessing, Burke, Coley, Dolan, Eklund, Fedor, Gavarone, Hoagland, Huffman, S., Johnson, Maharath, Manning, McColley, Obhof, O'Brien, Rulli, Schaffer, Sykes, Wilson  
Representatives Liston, West, Galonski, Manning, G., Miller, J., Sweeney

*Passed by the Senate,*

JUNE 3, 2020

*Passed by the House of Representatives,*

DECEMBER 8, 2020

*Filed in the office of the Secretary of State at  
Columbus, Ohio, on the*

23RD day of DECEMBER, A. D. 2020

  
Secretary of State.