



OHIO LEGISLATIVE SERVICE COMMISSION

Sub. Bill Comparative Synopsis

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Sub. H.B. 7

132nd General Assembly
(H. Civil Justice)

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (L_132_0199-1)	Sub. Version (L_132_0199-2)
Qualified immunity for health care providers and EMTs in a disaster	Expands the grant of qualified civil immunity to include advanced practice registered nurses, registered nurses, and emergency medical technicians (EMT-basic, EMT-I, and paramedics), defines those terms, consolidates the health professionals in the As Introduced and L_132_0199-1 versions into the general term "health care provider," and defines that term (<i>R.C. 2305.2311(A)(7)</i>).	Additionally expands the grant of such qualified civil immunity to include a pharmacist, defines "pharmacist," and includes a pharmacist in the general term "health care provider" as defined (<i>R.C. 2305.2311(A)(7) and (11)</i>).
Statements made in an unanticipated outcome of medical care	Renders inadmissible as evidence of an admission of liability a health care provider's, employee's, or representative's statements, affirmations, gestures, or conduct expressing error, mistake, or the taking of responsibility made to the victim of an unanticipated outcome of medical care or the victim's relative or	Renders inadmissible as evidence of an admission of liability a health care provider's, employee's, or representative's statements, affirmations, gestures, or conduct expressing error (this version removes <i>mistake, or the taking of responsibility</i>) or <u>fault</u> (term added by this version) made to the victim of an unanticipated

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	<p>representative that relate to the victim's suffering, injury, or death (R.C. 2317.43(A)).</p> <p>No provision.</p>	<p>outcome of medical care or the victim's relative or representative that relate to the victim's suffering, injury, or death (R.C. 2317.43(A)(1)).</p> <p>Provides that if any statements, affirmations, gestures, or conduct that are described in the preceding paragraph or any reference to them are included in the medical record pertaining to the victim of an unanticipated outcome of medical care, only the portions of the medical record that include those statements, affirmations, gestures, or conduct or reference to them are inadmissible as evidence of an admission of liability (R.C. 2317.43(A)(2) and (B)(1)).</p>
<p>Medical Malpractice Law – evidence</p>	<p>Requires the plaintiff, to recover damages in a medical claim, to establish by a preponderance of the evidence that the defendant's act or omission in rendering medical care or treatment is a deviation from the required standard of medical care or treatment and the direct and proximate cause of the injury, death, or loss to person. Direct and proximate cause is established by evidence showing that it is more likely than not that the defendant's act or omission was a cause in fact of the injury, death, or loss. (R.C. 2323.40(B).)</p> <p>Provides that any loss or diminution of a chance of recovery or survival by itself is not an injury, death, or loss to person for which damages may</p>	<p>No provision.¹</p> <p>No provision.</p>

¹ Common law specifies this requirement. See *Cooper v. Sisters of Charity of Cincinnati, Inc.*, 27 Ohio St.2d 242 (1971); 70 Ohio Jur. 3d Negligence, sec. 179.

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	<p>be recovered in a civil action on a medical claim (R.C. 2323.40(B)).</p> <p>States the findings of the General Assembly that the application of the so-called loss of chance doctrine improperly alters the requirement of direct and proximate causation, and abrogates the decision in <i>Roberts v. Ohio Permanente Medical Group, Inc.</i>, 76 Ohio St.3d 483 (1996), which adopted the loss of chance doctrine (Section 3).</p>	No provision.
<p>Medical Malpractice Law – additional claims after filing of complaint</p>	<p>No provision.</p> <p>Permits the plaintiff, within the period described in the next sentence, to join any additional claim or defendant if the original one-year limitation period for that claim had not expired prior to the filing of the original claim. Provides that if a complaint is filed prior to the expiration of the one-year limitation period, the period of time in which the parties may conduct discovery and in which the</p>	<p>Provides that the section (R.C. 2323.451) providing for additional claims <i>after</i> filing of the original complaint may be used in lieu of, and not in addition to the provision in R.C. 2305.113(B)(1), which primarily provides that if prior to the expiration of the one-year period of limitation for a medical claim, a claimant gives to the person subject to the claim written notice that the claimant is considering bringing an action, the action may be brought against the person notified within 180-days after the notice is given (R.C. 2323.451(A)(2)).</p> <p>Same provisions.</p>

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	<p>plaintiff may join any additional claim or defendant is equal to the balance of any days remaining from the filing of the complaint to the expiration of that one-year limitation period, plus 180 days from the filing of the complaint. (R.C. 2323.451(D)(1) and (2).)</p> <p>Provides that "[d]ivision (D) of this section" (preceding paragraph) does not modify or affect and shall not be construed as modifying or affecting any provision of the Revised Code or rule of common law that applies to the commencement of the period of limitation for medical claims that are asserted or defendants that are joined after the expiration of the "period of time described in that division" (R.C. 2323.451(E)).</p>	<p>Relocates this provision, includes it after the provision in existing division (F), and renumbers the two provisions as new R.C. 2323.451(E) as follows:</p> <p>After the expiration of 180 days following the filing of a complaint asserting a medical claim, the plaintiff cannot join any additional medical claim or defendant to the action unless the medical claim is for wrongful death, and the period of limitation for the claim under R.C. 2125.02 has not expired (no changes made by this version). <i>This section</i> does not modify or affect and shall not be construed as modifying or affecting any provision of the Revised Code, rule of common law, or <i>Ohio Rules of Civil Procedure</i> that applies to the commencement of the period of limitation for medical claims that are asserted or defendants that are joined after the expiration of the <i>180-day period of time described in division (D)(2) of this section</i> (italicized clauses are changed or added by this version).</p>