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H.B. 151*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Health, Human Services and Medicaid

Primary Sponsor: Rep. Carfagna

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SUMMARY

Chiropractic Loan Repayment Program

- Creates the Chiropractic Loan Repayment Program under which the Department of Health may repay a chiropractor's student loan if the chiropractor agrees to provide services for a specified period in a chiropractic health resource shortage area.
- Establishes the Chiropractic Loan Repayment Advisory Board and requires the Department to administer the program in cooperation with the Board.
- Establishes the Chiropractic Loan Repayment Fund and requires \$25 from each chiropractic license renewal fee to be credited to the fund.

Animal chiropractic

- Authorizes a chiropractor who is an animal chiropractic practitioner to practice animal chiropractic without supervision from a licensed veterinarian.
- Defines the scope of animal chiropractic, including limitations and duties.
- Requires animal chiropractic practitioners to register with the State Chiropractic Board.

State Chiropractic Board

- Revises certain other laws governing the Chiropractic Board, including provisions regarding Board meetings and the election of certain officers.

* This analysis was prepared before the report of the Senate Health, Human Services and Medicaid Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

Soliciting professional employment

- Modifies existing limitations on communication by, or on behalf of, certain health care practitioners to solicit professional employment from parties to car accidents, crime victims, and witnesses.

General qualified civil immunity

- Clarifies the effect of government orders on the temporary civil immunity for injuries caused by the transmission or contraction of or exposure to certain viruses.

Health care isolation center immunity

- Establishes a new temporary qualified civil immunity for health care isolation centers that are providing services to patients during a declared disaster or emergency.
- Grants immunity from tort liability and professional discipline for such services provided as a result of and in response to a disaster or emergency that results in injury, death, or loss allegedly resulting from (1) actions or omissions related to those services, (2) decisions related to those services, and (3) compliance with an executive order or director's order.
- Grants immunity from tort liability and professional discipline for injury, death, or loss allegedly resulting because a health care isolation center was unable to treat a person due to an executive or director's order or a local health order issued in relation to a public health emergency.

Exceptions to immunity

- Excludes from immunity in tort actions conduct that constitutes a reckless disregard of the consequences or intentional, willful, or wanton misconduct.
- Excludes from immunity in professional disciplinary actions conduct that constitutes gross negligence.
- Excludes from immunity conduct outside the skills, education, or training of the health care isolation center, unless undertaken in good faith in response to a lack of resources caused by a disaster or emergency.

Duration

- Provides that the immunity is effective through September 30, 2021.

Emergency medical services in additional settings

- Expands, until July 1, 2021, the authority of a first responder, emergency medical technician-basic, emergency medical technician-intermediate, and emergency medical technician-paramedic to perform emergency medical services in any setting, including in any area of a hospital, subject to direction and supervision requirements.
- Provides qualified immunity from damages in a civil action for injury, death, or loss to person or property resulting from the administration of emergency medical

services as authorized by the bill, unless the services are administered in a manner that constitutes willful or wanton misconduct.

Emergency declaration

- Declares an emergency.

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DETAILED ANALYSIS

Chiropractic Loan Repayment Program

The bill creates the Chiropractic Loan Repayment Program. Under the program, the Ohio Department of Health (ODH) may repay all or part of an educational loan taken by a chiropractor in exchange for the chiropractor providing services in a chiropractic health resource shortage area.¹ ODH is to administer the program in cooperation with the Chiropractic Loan Repayment Advisory Board, which the bill creates.

At present, ODH administers loan repayment programs for physicians, dentists, and dental hygienists providing services in health or dental resource shortage areas.²

Eligibility

To be eligible to participate in the program, an individual must be either of the following:

- A student enrolled in the final year of chiropractic school or college;

¹ R.C. 3702.98 to 3702.9810.

² R.C. 3702.75, 3702.85, and 3702.96, not in the bill.

- A chiropractor licensed by the State Chiropractic Board.

In addition, the individual must not have received other student loan repayment assistance.³

Educational expenses

Under the program, a chiropractor may seek reimbursement for the following educational expenses: tuition, room and board, and other expenses, including fees, books, and laboratory costs. With respect to room and board and other expenses, the amount of those expenses must be determined reasonable by the ODH Director.⁴

Repayment amounts

The bill requires the Chiropractic Loan Repayment Advisory Board to determine the amounts that will be paid as loan repayments on behalf of program participants. No repayment may exceed \$10,000 in any year and the total repayment cannot exceed \$30,000. In the event a repayment amount results in an increase in a participating chiropractor's tax liability, the chiropractor may request reimbursement for the increase.⁵

Failure to complete service obligation

Under the bill, if a chiropractor fails to complete service during the first two years of the service obligation, the chiropractor must pay ODH 1.5 times the total repayment amount. For a failure to complete service after the first two years of the service obligation, the chiropractor must pay ODH 1.5 times any amount that still remains to be repaid by ODH.⁶

Application

An individual seeking to participate in the program must apply to the ODH Director and submit all of the following information:

- The applicant's name, address, and telephone number;
- The chiropractic school or college the applicant is attending or attended, the dates of attendance, and verification of attendance;
- A summary and verification of the educational expenses for which the applicant seeks reimbursement under the program;
- If applicable, verification of the applicant's license to practice in Ohio;
- Verification of the applicant's U.S. citizenship or legal alien status.⁷

³ R.C. 3702.984(A).

⁴ R.C. 3702.98.

⁵ R.C. 3702.988.

⁶ R.C. 3702.986(B)(4).

⁷ R.C. 3702.984(B).

Priorities

The bill requires the ODH Director to establish, by rule, priorities for use in determining eligibility among applicants. The priorities may include consideration of an applicant's background and career goals, the length of time the applicant is willing to provide services in a chiropractic health resource shortage area, and the amount of educational expenses for which reimbursement is being sought.⁸

Approval of an application

The ODH Director is required to approve an application for participation if all of the following are the case:

- The Director finds that the applicant is eligible and is needed in a chiropractic health resource shortage area;
- Funds are available in the Chiropractic Loan Repayment Fund and the General Assembly has appropriated funds for the program.⁹

After approving the application, the ODH Director must notify the applicant of the decision and enter into discussions with the applicant. The purpose of the discussions is to facilitate the chiropractor's recruitment to a site within a chiropractic health resource shortage area where the chiropractor's services are needed. The Director may refer the applicant to the Ohio State Chiropractic Association for assistance with recruitment and placement.¹⁰

Letter of intent

If the ODH Director and applicant agree on the applicant's placement at a particular site within a chiropractic health resource shortage area, the applicant then signs and delivers to the Director a letter of intent agreeing to the placement.¹¹

Participation contract

On the signing of a letter of intent, the chiropractor and ODH Director may enter into a contract for the chiropractor's participation in the program. A lending institution may also be a party to the contract.

The contract must include all of the following obligations:

- That the chiropractor agrees to provide chiropractic services in the chiropractic health resource shortage area identified in the letter of intent for at least two years;
- That the chiropractor agrees to provide chiropractic services for a minimum of 20 hours per week and without regard to a patient's ability to pay;

⁸ R.C. 3702.983.

⁹ R.C. 3702.985.

¹⁰ R.C. 3702.985.

¹¹ R.C. 3702.985.

- That the chiropractor meets the requirements for a Medicaid provider agreement and enters into an agreement with the Department of Medicaid to provide chiropractic services to Medicaid recipients;
- That ODH agrees to repay all or part of the principal and interest of a government or other educational loan so long as the chiropractor performs the service obligation and the repayment amount does not exceed the limits established under the bill;
- That the chiropractor agrees to pay ODH if the chiropractor fails to complete the service obligation.¹²

The contract may include any other term as agreed upon by the parties, including a term in which ODH assumes the chiropractor's duty to pay the principal and interest of the chiropractor's educational loan. If ODH assumes that duty, the contract must specify the total amount of the principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

Statements

The bill requires ODH, not later than January 31 of each year, to send by ordinary mail to each chiropractor participating in the program a statement listing the amount of the principal and interest that has been repaid by ODH in the previous year. Each chiropractor must notify ODH of any address change not later than 30 days after the change.¹³

Chiropractic health resource shortage areas

Under the bill, the ODH Director must designate as chiropractic health resource shortage areas those areas in Ohio that experience special chiropractic health problems and chiropractor practice patterns that limit access to chiropractic care.¹⁴ The designations may apply to a geographic area, one or more facilities within a particular area, or a population group within a particular area. The ODH Director must consider for designation as a shortage area any area in Ohio that has been designated by the U.S. Secretary of Health and Human Services as a health professional shortage area.

The bill requires the Director to designate each free clinic, federally qualified health center, and federally qualified health center look-alike as a chiropractic health resource shortage area, regardless of where it is located.

Priorities among shortage areas

The bill requires the ODH Director, by rule, to establish priorities among chiropractic health resource shortage areas for use in recruiting chiropractors to sites within shortage areas.¹⁵ The Director must consider all of the following:

¹² R.C. 3702.986.

¹³ R.C. 3702.986(D).

¹⁴ R.C. 3702.982.

¹⁵ R.C. 3702.983.

- The ratio of chiropractors to the population in the shortage area;
- The distance to chiropractors outside the area;
- Health status indicators of the target population in the area;
- The presence of health care provider sites in the area with vacancies for chiropractors;
- The availability of an eligible candidate interested in being recruited to a particular site within an area;
- The distribution of chiropractic health care provider sites in urban and rural regions.

The bill requires the ODH Director to give greatest priority to chiropractic health resource shortage areas having a high ratio of population to chiropractors.

Rulemaking

The bill requires the ODH Director to adopt rules as necessary to implement and administer the program. In preparing rules, the Director must consult with the Chiropractic Loan Repayment Advisory Board.¹⁶ The rules must be adopted in accordance with the Administrative Procedure Act.¹⁷

Chiropractic Loan Repayment Advisory Board

The bill establishes a Chiropractic Loan Repayment Advisory Board consisting of the following members:

- One member of the House of Representatives, appointed by the Speaker of the House;
- One member of the Senate, appointed by the Senate President;
- A representative of the Department of Higher Education, appointed by the Chancellor;
- The ODH Director or Director's designee;
- Three representatives of the chiropractic profession, appointed by the Governor.¹⁸

Appointments

Initial appointments must be made not later than 90 days after the bill's effective date. Initial members serve staggered terms of one or two years; thereafter, terms of office are for two years.

Terms of office and compensation

Each member holds office from the date of appointment until the end of the term for which the member was appointed, except that a legislative member ceases to be an Advisory Board member when the legislative member ceases to be a member of the General Assembly.

¹⁶ R.C. 3702.981.

¹⁷ R.C. Chapter 119, not in the bill.

¹⁸ R.C. 3702.987.

The bill prohibits a person from serving more than two consecutive terms on the Advisory Board. Members are to serve without compensation.

Vacancies and removal

Under the bill, vacancies are filled in the same manner as original appointments. A member appointed to fill a vacancy that occurs prior to the expiration of the predecessor's term must hold office for the remainder of that term. A member must continue in office subsequent to the expiration of the member's own term until a successor takes office or 60 days have elapsed, whichever occurs first.

The Governor, Speaker, or Senate President may remove a member that he or she appointed for misfeasance, malfeasance, or willful neglect of duty.

Chairperson, meetings, and quorum

The Advisory Board must designate one of its members to serve as the Board's chairperson. The bill requires the Board to meet at least once annually. The chairperson must call special meetings on the request of four members or as needed. Four members constitute a quorum.

Assistance

The bill requires ODH to provide the Advisory Board with staff assistance as requested.

Advisory Board report

The bill requires the Advisory Board, annually on or before March 1, to submit to the Governor and General Assembly a report describing the operations of the program during the previous year.¹⁹ The report must include information about all of the following:

- The number of requests received by the ODH Director that a particular area be designated as a chiropractic health resource shortage area;
- The areas that have been designated as chiropractic health resource shortage areas and the priorities that have been assigned to them;
- The number of applicants for participation in the program;
- The number of chiropractors assigned to shortage areas and the payments made on their behalf under the program;
- The shortage areas that have not been matched with all of the chiropractors they need;
- The number of chiropractors failing to complete their service obligations, the amount of damages owed, and the amount of damages collected.

¹⁹ R.C. 3702.989.

Funds in the state treasury

The bill creates the following funds in the state treasury: the Chiropractic Health Resource Shortage Area Fund and Chiropractic Loan Repayment Fund.²⁰ The funds must be used to implement and administer the program.

Gifts; damages from default

The bill authorizes the ODH Director to accept gifts of money from any source for the implementation and administration of the program. All gifts must be paid into the treasury to the credit of the Chiropractic Health Resource Shortage Area Fund. All damages collected from program participants who fail to fulfill their service obligations must be paid in the treasury to the credit of the Chiropractic Loan Repayment Fund.

License renewal fee

The State Chiropractic Board must deposit \$25 of each license renewal fee that the Board collects into the treasury to the credit of the Chiropractic Loan Repayment Fund.²¹ Under current law, to renew a license to practice chiropractic, a chiropractor must pay a biennial renewal fee of \$500.²²

Animal chiropractic

The bill authorizes a chiropractor who is an animal chiropractic practitioner to practice animal chiropractic²³ without supervision from a licensed veterinarian.²⁴ Animal chiropractic is defined by the bill as the evaluation and treatment of an animal's vertebral or extremity joint dysfunction through spinal, joint, or musculo-skeletal manipulative therapy or soft tissue therapy. It does not include selling, distributing, recommending, or providing advice regarding vitamins, minerals, and related substances, over-the-counter drugs, or durable and nondurable medical goods and devices.²⁵

In order to be an animal chiropractic practitioner, a licensed chiropractor must hold a current, valid certification from one of the following:

1. The American Veterinary Chiropractic Association;
2. The International Veterinary Chiropractic Association;
3. The College of Animal Chiropractors;
4. Any other credentialing organization specified in rules.²⁶

²⁰ R.C. 3702.9810.

²¹ R.C. 4734.25.

²² Ohio Administrative Code (O.A.C.) 4734-7-01(B).

²³ R.C. 4734.15(C).

²⁴ R.C. 4734.151(C)(1)(c).

²⁵ R.C. 4734.151(A)(2).

²⁶ R.C. 4734.151(A)(3).

The bill specifies that the State Chiropractic Board may add or remove credentialing organizations through rules, in consultation with the State Veterinary Medical Licensing Board (see “**Rulemaking**,” below).

Prohibition against unauthorized practice

The bill generally prohibits a chiropractor who is not an animal chiropractic practitioner from (1) practicing animal chiropractic and (2) representing that the chiropractor is, or holding the chiropractor’s self out to the public as, an animal chiropractic practitioner.²⁷ However, chiropractors who are not animal chiropractic practitioners may assist licensed veterinarians under continuing law not modified by the bill, so long as the chiropractor acts under direct veterinary supervision and other conditions in current law are met.²⁸

Registration with Chiropractic Board

The bill requires animal chiropractic practitioners to register with the State Chiropractic Board in a manner specified by the Board.²⁹ The Board is required to maintain and make public a list of registered animal chiropractic practitioners.³⁰

Limitations and duties

The bill limits the practice of animal chiropractic to only types of animals on which a chiropractor has received training.³¹

Prior to providing animal chiropractic, an animal chiropractic practitioner must require the animal’s owner or agent to complete and sign an application for care form. The form must contain at least the following:

1. A statement that the chiropractor is not a licensed veterinarian and cannot maintain primary responsibility for the animal’s care;
2. A statement that animal chiropractic is not intended to replace traditional veterinary care and is to be used concurrently and in conjunction with traditional veterinary care by a licensed veterinarian;
3. Questions related to whether the animal has been seen by a veterinarian within the past year and whether a veterinarian has provided a diagnosis of the animal;
4. A statement authorizing the chiropractor to provide animal chiropractic to the animal.³²

²⁷ R.C. 4734.151(B).

²⁸ R.C. 4734.151(C)(2) and 4741.19(F), not in the bill.

²⁹ R.C. 4734.151(C)(1)(a).

³⁰ R.C. 4734.151(E).

³¹ R.C. 4734.151(C)(1)(b).

³² R.C. 4734.151(C)(1)(d) and (D).

An animal chiropractic practitioner is required to maintain the form, as well as other medical records related to the evaluation or treatment of an animal, for at least three years. The chiropractor must provide the medical records to an animal's veterinarian on request.³³

Chiropractor discipline

The bill authorizes the Chiropractic Board to take disciplinary action against an animal chiropractic practitioner related to the practice of animal chiropractic in a manner similar to existing law related to the practice of chiropractic.³⁴

When the Chiropractic Board is conducting an investigation or taking action against a chiropractor related to the practice of animal chiropractic, the bill requires the Board to retain as an expert witness a licensed veterinarian who is certified by an approved animal chiropractic credentialing organization. Current law maintained by the bill specifies that when taking action against a chiropractor related to compliance with acceptable and prevailing standards of care in the practice of chiropractic or acupuncture, the Board is not required to retain an expert witness.³⁵

Veterinarian practice and liability

The bill provides that it does not restrict a licensed veterinarian from practicing veterinary medicine, nor does it restrict any other individual from acting as authorized under the law governing veterinarians. An animal's veterinarian is not liable for the actions of an animal chiropractic practitioner.³⁶

Rulemaking

The bill authorizes the State Chiropractic Board to adopt rules in accordance with the Administrative Procedure Act. The following rules must be adopted in consultation with the State Veterinary Medical Licensing Board:

1. Rules regarding standards of medicine or care for an animal;
2. Rules to remove or add credentialing organizations, as discussed above.

In consulting with the Veterinary Medical Board, the Chiropractic Board must provide a copy of the rule to the Veterinary Medical Board before the rule is filed with the Joint Committee on Agency Rule Review. The Veterinary Medical Board must informally vote on the rule at its next meeting. Regardless of the outcome of the vote, the Chiropractic Board may proceed in accordance with the Administrative Procedure Act.³⁷

³³ R.C. 4734.151(C)(1)(e).

³⁴ R.C. 4734.31(C).

³⁵ R.C. 4734.31(E).

³⁶ R.C. 4734.151(F).

³⁷ R.C. 4734.151(G).

State Chiropractic Board

The bill revises certain laws governing the State Chiropractic Board and its regulation of chiropractors.

Acupuncture certificates

Existing law authorizes the State Chiropractic Board to issue to chiropractors licensed by the Board certificates to practice acupuncture.³⁸ Each certificate expires annually and may be renewed.³⁹ The bill extends the length of time that a certificate is valid from one year to two and requires the Board to establish a schedule for the biennial expiration of certificates.⁴⁰

The bill also authorizes the Board to take any action it considers necessary for the purpose of converting to a biennial expiration schedule.⁴¹

Annual meetings and elections

The bill eliminates the requirement that the Board hold an annual meeting in Ohio in September of each year.⁴² It also requires elections for Board President to be held at the first Board meeting held in each odd-numbered year, rather than at every annual September as under current law.⁴³

Soliciting professional employment

The bill makes several changes to existing law that prohibits physicians, advance practice registered nurses, physician assistants, psychologists, and chiropractors – and persons acting on their behalf – from soliciting employment from any party to a car accident, a crime victim, or a witness to a car accident or crime until 30 days after the accident or the crime.⁴⁴ The primary changes are regarding contacting parties to car accidents.

Soliciting parties to car accidents

Under the bill, the specified health care practitioners and persons acting on their behalf are generally prohibited from contacting a party to a car accident in person at any time for the purpose of obtaining professional employment. Beginning 24 hours after an accident, the following contact is permissible:⁴⁵

- Telephone contact, but not more than once in any 48-hour period;
- One contact through electronic mail;

³⁸ R.C. 4734.281, not in the bill, and 4734.283.

³⁹ R.C. 4734.283 and 4734.284, not in the bill.

⁴⁰ R.C. 4734.283.

⁴¹ Section 3.

⁴² R.C. 4734.04.

⁴³ R.C. 4734.05.

⁴⁴ R.C. 1349.05.

⁴⁵ R.C. 1349.05(D)(1) and (2).

- One contact through a text message;
- One letter delivered through the United States Postal Service.

However, the limitations described above do not apply to the solicitation of professional services if (1) the party being solicited was a previous purchaser of services from the health care professional, (2) the solicitation is made under the same business or professional name that was previously used to sell services to the party, and (3) the person who will be providing the services has operated a business or professional occupation under the same business or professional name used in the solicitation for at least three years.⁴⁶

The table below summarizes these changes as they relate to current law.

Soliciting professional employment from a party to a car accident		
	The bill⁴⁷	Current law⁴⁸
In-person contact	Prohibited unless the previous purchaser exception applies (see below).	Unclear; current law prohibits in-person contact until 30 days after a car accident, but also specifies that any communication to obtain professional employment must be sent via the U.S. Postal Service (USPS).
Telephone contact	Permitted beginning 24 hours after the accident, but not more than once in any 48-hour period, subject to the previous purchaser exception below.	Unclear; current law prohibits telephone contact until 30 days after a car accident, but also specifies that any communication to obtain professional employment must be sent via the USPS.
Electronic means	One email and one text message are permitted beginning 24 hours after the accident, subject to the previous purchaser exception below.	Unclear; current law prohibits contact through electronic means until 30 days after a car accident, but also specifies that any communication to obtain professional employment must be sent via the USPS.
Nonelectronic writing	One letter delivered via the U.S. Postal Service is permitted beginning 24 hours after the accident, subject to the previous purchaser exception below.	No limitation on nonelectronic written communication.

⁴⁶ R.C. 1349.05(D)(3).

⁴⁷ R.C. 1349.05(D).

⁴⁸ R.C. 1349.05(B) and (C).

Soliciting professional employment from a party to a car accident		
	The bill⁴⁷	Current law⁴⁸
Previous purchaser exception	Specifies that the limitations described above do not apply if the party being solicited was a previous purchaser of services from the health care professional.	No provision.

Soliciting crime victims and witnesses

Regarding crime victims and witnesses to car accidents and crimes, other than witnesses who are parties to car accidents, the bill generally maintains the current law limitations described in the table above, except it clarifies current law by removing the requirement that any communication to obtain professional employment be sent through the U.S. Postal Service. Accordingly, in-person, telephone, and electronic communication is permissible 30 days after a crime or car accident for all individuals other than parties to a car accident (parties to a car accident are subject to the bill's communication provisions described above).⁴⁹

Other changes regarding soliciting professional employment

The bill removes the Attorney General's authority to enforce the communication limitations described above. Instead, licensing agencies are required to issue notices and conduct hearings regarding potential violations in accordance with the Administrative Procedure Act (R.C. Chapter 119). As under current law, if a violation is found on three separate occasions, the licensing agency must suspend the person's license. Under law removed by the bill, the Attorney General is authorized to impose fines. The fines are \$5,000 for the first violation and \$25,000 for subsequent violations.⁵⁰

General qualified civil immunity

The bill clarifies the effect of government orders on the temporary civil immunity for injuries caused by the transmission or contraction of or exposure to certain viruses.⁵¹ House Bill 606 of the 133rd General Assembly generally prohibits bringing a civil action against any person for injury, death, or loss to person or property caused by exposure to, or transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2, unless certain exceptions are met. H.B. 606 provides that a government order, recommendation, or guideline does not create a duty of care on a person that may be enforced in a cause of action or that may create a new cause of action or substantive right against any person. It further provides that a presumption exists that a government order, recommendation, or guidance is not admissible as evidence that a duty of care or new cause of action or substantive legal right has been established. The

⁴⁹ R.C. 1349.05(B) and (C).

⁵⁰ R.C. 1349.05(E).

⁵¹ Section 4.

bill clarifies that this language applies only to the temporary civil immunity regarding exposure to, or transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2 that was enacted in H.B. 606.⁵²

Health care isolation center immunity

The bill establishes a temporary qualified civil immunity for health care isolation centers rendering health care services during a declared disaster or emergency. A health care isolation center is a facility that operates under the guidance and monitoring of the Ohio Department of Health and specializes in the care of patients with an active or convalescent COVID-19 infection or who have other health care needs and require quarantine up to 14 days following exposure to COVID-19, and includes the center's employees, agents, and volunteers.⁵³ These facilities were permitted and receive an increased nursing facility payment rate under the Medicaid state plan amendment approved by the Centers for Medicare and Medicaid Services on May 22, 2020.⁵⁴

Temporary qualified civil immunity

Under the bill, a health care isolation center that provides health care services, emergency medical services, first-aid treatment, or other emergency professional care (including providing any medication, medical equipment, or other medical product), as a result of or in response to a disaster or emergency is not subject to professional disciplinary action and is not liable in a tort action to any person or government agency for injury, death, or loss to person or property arising from any of the following:

- An act or omission of the health care isolation center in the provision, withholding, or withdrawal of those services;
- Any decision related to providing, withholding, or withdrawing those services;
- Compliance with an executive order or director's order issued during and in response to the disaster or emergency.⁵⁵

The immunity applies to actions, omissions, decisions, or compliance as a result of or in response to a disaster or emergency and through the duration of the disaster or emergency.⁵⁶

A "disaster" is any occurrence of widespread personal injury or loss of life that results from any natural or technological phenomenon or act of a human, or an epidemic and is declared to be a disaster by the federal government, the state government, or a political

⁵² Section 4.

⁵³ Section 7(A)(5).

⁵⁴ Medicaid.gov, Ohio state plan amendment approval, Centers for Medicare and Medicaid Services, May 22, 2020, <https://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/OH/OH-20-0012.pdf>.

⁵⁵ Section 7(B)(1).

⁵⁶ Section 7(C)(5).

subdivision of Ohio.⁵⁷ An “emergency” is any period during which Congress, the Governor, a board of county commissioners, a board of township trustees, or a mayor or city manager in Ohio has declared or proclaimed that an emergency exists.⁵⁸

“Health care services” are services rendered by a health care isolation center for the diagnosis, prevention, treatment, cure, or relief of a health care condition, illness, injury, or disease. It also includes personal care services (assisting with activities of daily living and self-administration of medication and preparing special diets) and experimental treatments.⁵⁹ A tort action is a civil action for injury, death, or loss to person or property, including a medical claim, and includes claims arising under resident or patient bills of rights and contractual claims arising out of statutory or regulatory requirements applicable to health care isolation centers.⁶⁰

Inability to provide services

The bill further provides that a health care isolation center is not subject to professional discipline nor liable in a tort action for injury, death, or loss to person or property that allegedly arises because the center was unable to treat, diagnose, or test a person for any illness, disease, or condition due to an executive or director’s order or an order of a local board of health issued in relation to an epidemic, pandemic, or other public health emergency.⁶¹

Exceptions to immunity

Reckless disregard or intentional misconduct or willful or wanton misconduct

In a tort action, the immunity does not apply to actions, omissions, decisions, or compliance that constitute a reckless disregard for the consequences so as to affect the life or health of a patient, or intentional, willful, or wanton misconduct. “Reckless disregard” means conduct by which, with heedless indifference to the consequences, the health care isolation center disregards a substantial and unjustifiable risk that the conduct is likely to cause, at the time health care or emergency services were rendered, an unreasonable risk of injury, death, or loss to person or property.⁶²

Gross negligence

In a professional disciplinary action, the immunity does not apply to actions, omissions, decisions, or compliance that constitutes gross negligence (a lack of care so great that it appears to be a conscious indifference to the rights of others).⁶³

⁵⁷ Section 7(A)(2).

⁵⁸ Section 7(A)(3), referencing R.C. 5502.21.

⁵⁹ Section 7(A)(6); R.C. 3721.01, not in the bill.

⁶⁰ Section 7(A)(11).

⁶¹ Section 7(B)(4).

⁶² Section 7(A)(10) and (B)(2).

⁶³ Section 7(A)(4) and (B)(3).

Outside skills, education, and training

The immunity does not apply in a tort or professional disciplinary action for actions that are outside the skills, education, or training of the health care isolation center, unless the center undertakes the action in good faith and in response to a lack of resources caused by a disaster or emergency.⁶⁴

Interaction with other legal rights and duties

The immunity does not create a new cause of action or substantive legal right against a health care isolation center, affect any immunities established by another section of the Revised Code or at common law, or affect any legal responsibility of a health care isolation center to comply with any state law or administrative rule.⁶⁵ While the bill's immunity is in effect, with respect to health care isolation centers, it supersedes law (unchanged by the bill) that grants immunity to certain health care providers who render emergency services as a result of a disaster.⁶⁶

Class action prohibition

When the immunity does not apply, the bill prohibits bringing a class action against a health care isolation center.⁶⁷

Duration

The immunity is effective through September 30, 2021.

Emergency medical services in additional settings

Expansion of services to any setting

The bill temporarily broadens the settings in which first responders and emergency medical technicians (EMTs) are authorized to provide emergency medical services. Under the bill, those services may be provided in any setting, including any area of a hospital.⁶⁸ This replaces current law that (1) does not authorize a first responder to provide services in a hospital and (2) limits an EMT's actions to the hospital's emergency department or while moving a patient from the emergency department.⁶⁹

⁶⁴ Section 7(C)(3).

⁶⁵ Section 7(C)(1), (2), and (4).

⁶⁶ Section 7(E); R.C. 2305.2311, not in the bill.

⁶⁷ Section 7(D).

⁶⁸ Section 8(B).

⁶⁹ R.C. 4765.35 and 4765.36, not in the bill.

The expanded authority, which will be in effect only until July 1, 2021,⁷⁰ applies to first responders, as well as to each of the three categories of EMTs certified under current law: EMTs-basic, EMTs-intermediate, and EMTs-paramedic.⁷¹

As is the case when an EMT performs services in a hospital's emergency department under current law, the bill specifies that a first responder or EMT may perform emergency medical services in any setting only if the first responder or EMT does so under direction and supervision. Under the bill, the direction and supervision can be by a physician, physician assistant designated by a physician, or advanced practice registered nurse designated by a physician.⁷²

Qualified immunity

The bill provides that a first responder or EMT is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's administration of emergency medical services, unless the services are administered in a manner that constitutes willful or wanton misconduct.⁷³

HISTORY

Action	Date
Introduced	03-20-19
Reported, H. Health	02-05-20
Passed House (95-1)	02-12-20
Reported, S. Health, Human Services & Medicaid	--

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⁷⁰ Section 8(B).

⁷¹ See also R.C. 4765.011 (describing alternative titles for the three categories of EMTs: emergency medical technician (EMT), advanced emergency medical technician (AEMT), and paramedic.

⁷² Section 8(B).

⁷³ Section 8(C)