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Final Analysis

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SUMMARY

Administration of immunizations and COVID-19 tests

- Prohibits the administration of a COVID-19 vaccine to a minor without first obtaining written permission from the minor's parent or guardian.
- Authorizes podiatrists, pharmacists, and pharmacy interns to administer COVID-19 vaccines to individuals seven and older.
- Authorizes a pharmacist or pharmacy intern to administer any vaccines to individuals 13 and older, rather than only those included in federal recommended schedules.
- Authorizes a pharmacist to order and administer diagnostic tests for COVID-19 and COVID-19 antibodies.
- Authorizes a pharmacy intern or certified pharmacy technician to administer diagnostic tests for COVID-19 and COVID-19 antibodies if the intern or technician is under the direct supervision of a pharmacist.

Registration of pharmacy technician trainees

- Revises the law governing the registration of pharmacy technician trainees, including by authorizing the State Board of Pharmacy to register an applicant who is 17 if certain conditions are met.

Temporary nursing licenses without examination

- Continues until July 1, 2021, the suspension of the requirement that an applicant pass a licensure examination to receive a license to practice as a registered nurse or licensed practical nurse, and adds eligibility limitations.

- Specifies that a nursing license issued without examination is valid until July 1, 2021, unless the licensee does not take or fails the licensure examination, is convicted of a felony, or fails a drug test.

Pupil services licenses and school nurses

- Revises the educational qualifications governing the pupil services licensure exemption available to school nurses.

Educator preparation program make-up time

- Requires each educator preparation program to develop and implement a plan to provide its students with alternative experiences in the 2021-2022 academic year to make up hours or weeks of clinical experiences missed due to school closure or limited hours because of COVID-19.
- Requires the Department of Higher Education and Department of Education to consider a student who successfully completes make-up hours or weeks in the 2021-2022 academic year using alternative experiences eligible for licensure and endorsement recommendations in the same manner as a student who completes clinical experiences.

Re-established low-income energy efficiency programs

- Requires electric distribution utilities (EDUs) to re-establish from portfolio plans that terminated December 31, 2020, energy efficiency (EE) programs for low-income customers with an annual income at or below 200% of the federal poverty level.
- Requires the re-established low-income EE programs to include the same terms and conditions, including its originally allocated funding level, that the Public Utilities Commission (PUCO) approved for the program before its termination.
- Terminates the re-established low-income EE programs on December 31, 2021.
- Requires PUCO to issue an order requiring EDUs to re-establish their low-income EE programs and setting forth the process for their re-establishment.
- Prohibits PUCO order from permitting new or extended cost recovery mechanisms for the re-established programs.
- Provides for the reconciliation of the difference between revenue collected and the compliance efforts occurring prior to (1) December 31, 2021, for re-established programs and (2) the date on which full energy savings compliance is deemed achieved for all other EE compliance efforts.

DETAILED ANALYSIS

Administration of COVID-19 vaccines to minors

The act prohibits an individual who is authorized to administer a vaccine from administering to a minor a COVID-19 vaccine without first obtaining written permission from the minor's parent or legal guardian.¹ Before rendering medical treatment, a health care professional is generally required to obtain informed consent from the patient.² Consistent with the doctrine that minors are incompetent to consent on their own and that parents are responsible for the custody, care, and control of their minor children,³ consent of a parent or guardian is generally required before a minor may receive a vaccine. The act clarifies that this consent must be in writing.

Podiatrist administration of COVID-19 vaccinations

The act authorizes podiatrists to administer vaccinations against COVID-19 to individuals age seven and older.⁴ This is in addition to recently enacted law⁵ that grants podiatrists authority to administer flu shots to individuals age seven and older. Except for the law governing podiatrist administration of flu and COVID-19 vaccinations, the practice of podiatric medicine is otherwise limited to the treatment of foot and foot-related ailments and superficial hand lesions.⁶

Pharmacist administration of immunizations and COVID-19 tests

COVID-19 immunizations and tests

Subject to the same requirements and limitations as in current law for administering flu shots, the act authorizes a pharmacist or pharmacy intern to administer COVID-19 vaccines to individuals seven and older. These requirements include (1) completing a course in the administration of immunizations, (2) maintaining CPR certification, and (3) practicing in accordance with a physician-established protocol.⁷

¹ R.C. 3792.03.

² *White v. Leimbach* 131 Ohio St.3d 21 (2011).

³ *Meyer v. Nebraska* 262 U.S. 390 (1923).

⁴ R.C. 4731.512.

⁵ S.B. 178 of the 133rd General Assembly. Available [here](#).

⁶ R.C. 4731.51, not in the act.

⁷ R.C. 4729.41.

In addition, the act allows a pharmacist to order and administer diagnostic tests for COVID-19 and tests for COVID-19 antibodies. Moreover, pharmacy interns and certified pharmacy technicians may administer the tests if under the direct supervision of a pharmacist.⁸

Other immunizations

The act authorizes pharmacists and pharmacy interns to administer to individuals 13 and older immunizations for any disease.⁹ Prior law had limited this authority to immunizations included on the immunization schedule recommended by the Advisory Committee on Immunization Practices of the U.S. Centers for Disease Control and Prevention. The act also maintains the law specifically allowing pharmacists and pharmacy interns to administer flu shots to individuals seven and older.

Registration of pharmacy technician trainees

The act makes three changes to the law governing the registration of pharmacy technician trainees. First, it authorizes the State Board of Pharmacy to register an applicant who is 17 years old and does not possess a high school diploma or equivalent if the applicant is enrolled in a Board-approved career-technical education program. Generally, to be eligible for registration, an applicant must be 18 or older and possess a high school diploma or equivalent certificate.

Second, the act allows the Board to extend the time during which a registration is valid, which under prior law had been limited to one year.

Third, the act requires the Board to comply with the law known as the “Fresh Start Act,” enacted by [H.B. 263 of the 133rd General Assembly](#), when registering a pharmacy technician trainee who is either:

- Licensed or registered as a technician trainee in another state; or
- Has satisfactory work experience, government certification, or private certification as a pharmacy technician trainee in a state that does not issue a license or registration.

The Fresh Start Act generally prohibits any state licensing authority from refusing to issue an initial license or other authorization allowing an individual to engage in any profession, occupation, or occupational activity regulated by the licensing authority based on certain prior criminal offenses.¹⁰

Pupil services licenses and school nurses

The act revises the qualifications a registered nurse must meet to be exempt from having to obtain a separate license from the State Board of Education, known as a pupil services license, in order to work in a public school. Specifically, it removes the requirement that the

⁸ R.C. 4729.42.

⁹ R.C. 4729.41(A)(2).

¹⁰ R.C. 4729.92 and 4729.921. See R.C. 9.79, not in the act.

nurse hold a bachelor's degree in nursing, requiring only that the nurse hold a bachelor's degree. It maintains the requirement that the nurse must have a valid license from the Ohio Board of Nursing.¹¹

Temporary nursing licenses without examination

H.B. 197 of the 133rd General Assembly, effective March 27, 2020, temporarily suspended the requirement that an applicant pass a licensure examination accepted by the Ohio Board of Nursing to receive a license to practice as a registered nurse or licensed practical nurse. This act, H.B. 6, makes the following changes:

1. Terminates the suspension of the examination requirement on July 1, 2021. H.B. 197 originally would have terminated the suspension when the COVID-19 emergency period expired, which was [June 18, 2021](#).
2. Terminates the validity of the licenses granted without examination on July 1, 2021. H.B. 197 originally would have terminated them on March 1, 2021.
3. Adds provisions to immediately void a temporary license if the licensee either:
 - a. Does not take the licensure examination within 60 days after receiving authorization to test;¹²
 - b. Takes and fails the licensure examination;
 - c. Is convicted of, pleads guilty to, or has a judicial finding of guilt for, any felony; or
 - d. Fails a drug test, as determined by the Board of Nursing.

Eligibility

The act added the following conditions to qualify for a nursing license issued without examination:

- The individual has not previously taken and failed the licensure examination;
- The individual has not been convicted of, pleaded guilty to, or had a judicial finding of guilt for, any felony;
- The individual has not failed a drug test, as determined by the Board of Nursing; and
- The individual did not graduate from a nursing program or course more than two years before submitting an application for the license.

Licensure deadlines and H.B. 404 of the 133rd General Assembly

The act includes language clarifying that provisions of previous enactments, including H.B. 404 of the 133rd General Assembly, extending the dates by which state agencies and

¹¹ R.C. 3319.221.

¹² See NCSBN, *Before the Exam: NCLEX Registration and Authorization to Test*, <https://www.ncsbn.org/before-the-exam.htm>.

license holders must generally comply with licensure deadlines, do not apply to the issuance and validity of nursing licenses issued without examination.¹³

Educator preparation program make-up time

The act requires each educator preparation program to develop and implement a plan to provide its students with alternative experiences, assignments, or instruction in the 2021-2022 academic year to make up any hours or weeks of clinical experiences missed due to school closure or limited hours because of COVID-19. These alternatives must allow students to demonstrate mastery of the expected outcomes of clinical experiences. They may include:

1. Virtual learning;
2. Designing lessons and units of instruction;
3. Selecting and implementing instructional strategies;
4. Teaching lessons and content;
5. Assessing learning to evaluate student progress and inform instructional decisions;
6. Creating a supportive learning environment;
7. Managing the classroom effectively; and
8. Other appropriate activities.

The act requires the Department of Higher Education and the Department of Education to consider a student who successfully completes make-up hours or weeks in the 2021-2022 academic year using these alternatives eligible for licensure and endorsement recommendations in the same manner as a student who completes clinical experiences.

The act specifies that this provision does not apply to a barber school or school of cosmetology.¹⁴

Background

The Department of Higher Education issued guidance to educator preparation programs in March 2020 regarding students who were at risk of not meeting clinical experience requirements due to efforts to curb the spread of COVID-19. That guidance, which was updated in August 2020 and applies to the 2020-2021 academic year, indicates that the Department is providing programs with flexibility in meeting the requirements for student clinical experiences. Programs must offer students alternative experiences, assignments, or instruction to allow students to demonstrate mastery of expected outcomes as an alternative to traditional experiences. Students who successfully complete the alternative experiences will be eligible for licensure and endorsement recommendations.¹⁵

¹³ Sections 6 and 7 of the act, amending Section 30 of H.B. 197 of the 133rd General Assembly.

¹⁴ Section 8.

¹⁵ <https://www.ohiohighered.org/educator-preparation/covid-19-guidance>.

Re-established low-income energy efficiency programs

The act requires electric distribution utilities (EDUs) to re-establish energy efficiency (EE) programs for low-income customers with annual incomes at or below 200% of the federal poverty level, if the EDUs had such plans as part of their portfolio plans that terminated on December 31, 2020. Under the act, re-established low-income EE programs must include the same terms and conditions that the Public Utilities Commission (PUCO) approved for the program before its termination. Each re-established program also must include its originally allocated funding level. Re-established programs terminate on December 31, 2021.¹⁶

PUCO order for re-established programs

PUCO must issue an order requiring EDUs to re-establish the low-income EE programs. The order must set forth the process for the programs' re-establishment.

The act prohibits PUCO from permitting any new cost recovery mechanisms for the re-established low-income EE programs and also prohibits PUCO from extending any cost recovery mechanisms that existed before these programs were re-established.¹⁷

Cost recovery and reconciliation for EE programs

The act provides for a period during which EDUs may reconcile the difference between revenue collected from customers and the allowable cost for EE compliance efforts occurring prior to (1) December 31, 2021, for re-established low-income EE programs and (2) the date upon which full energy savings compliance is deemed achieved, for all other compliance efforts.¹⁸ Prior law did not set a different reconciliation date for low-income EE programs.

Background

Prior to the enactment in 2019 of H.B. 6 of the 133rd General Assembly (not this act), EDUs were required to meet cumulative energy savings requirements that increased to over 22% during the period ending in 2027. The changes enacted by 2019's H.B. 6 ended the energy savings requirements in 2020 and required PUCO to determine, by February 1, 2021, the cumulative energy savings collectively achieved since 2009 by all Ohio EDUs as of December 31, 2020.¹⁹

The law provides that if the cumulative energy savings collectively achieved equals at least 17.5%, full compliance with the requirement is deemed to have been achieved. If full compliance is achieved, EDUs are no longer required to implement EE programs, and rate mechanisms to recover the costs of implementing the EE programs terminate on the date that full compliance is deemed achieved.²⁰ On February 24, 2021, PUCO issued an order

¹⁶ R.C. 4928.661(A) and (B).

¹⁷ R.C. 4928.661(C).

¹⁸ R.C. 4928.66(G)(3).

¹⁹ R.C. 4928.66(A)(1)(a) and (G)(1).

²⁰ R.C. 4928.66(G)(2) and (3).

(1) confirming that the EDUs met the 17.5% cumulative energy savings requirement at approximately 19.8% and (2) terminating the EDUs' EE and peak demand reduction cost recovery riders.²¹

Continuing law allows EDUs to reconcile the difference between revenue collected and the allowable costs of compliance associated with complying with the energy savings requirements, and ongoing law, unchanged by this act, prohibits the extension of the cost recovery mechanism beyond the time required for this final reconciliation.²²

HISTORY

Action	Date
Introduced	02-03-21
Reported, H. State & Local Gov't	02-25-21
Passed House (96-2)	03-03-21
Reported, S. Gov't Oversight & Reform	05-11-21
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House concurred in Senate amendments (93-0)	05-12-21

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²¹ See PUCO Case No. 16-574-EL-POR, available [here](#).

²² R.C. 4928.66(G)(3).