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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 407  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Liston and Russo

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### SUMMARY

- Prohibits a state or local government entity from requiring a physician to provide a patient with a medical service or information that is not, in the physician's clinical judgment, medically accurate and appropriate for the patient.
- Specifies that a state or local government entity cannot prohibit a physician from providing a patient with a medical service or information that is, in the physician's clinical judgment, appropriate for the patient and evidence-based or medically accurate.

### DETAILED ANALYSIS

#### Clinician Integrity and Medical Accuracy Act

H.B. 407, to be designated as the "Clinical Integrity and Medical Accuracy Act,"<sup>1</sup> prohibits a state or local government entity from doing either of the following: (1) requiring a physician to provide a patient with any information or service that is inaccurate, inappropriate, or not evidenced-based or (2) preventing a physician from providing a patient with any information or service that is accurate, appropriate, or evidenced-based. These limitations on the actions of government entities extend to any person operating under the authority of a physician.<sup>2</sup>

Specifically, the bill prohibits a state or local government entity from requiring either of the following to be provided to a patient:

- Information that is not, in the physician's reasonable professional clinical judgment, medically accurate and appropriate for the patient;

<sup>1</sup> Section 2.

<sup>2</sup> R.C. 4731.92(B).

- A medical service in a manner that is not, in the physician's reasonable professional clinical judgment, evidence-based and appropriate for the patient.<sup>3</sup>

In turn, the bill specifies that a state or local government entity cannot prohibit either of the following from being provided to a patient:

- Information that, in the physician's reasonable professional clinical judgment, is medically accurate and appropriate for the patient;
- A medical service in a manner that, in the physician's reasonable professional clinical judgment, is evidence-based and appropriate for the patient.<sup>4</sup>

### **Government entities affected**

The bill's limitations on the actions of government entities relative to the provision of medical information and services apply to all of the following:<sup>5</sup>

- The state of Ohio;
- All branches, departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state;
- Any individual acting on behalf of an instrumentality of the state;
- Any county, township, municipal corporation, or any other body corporate or politic that is responsible for government activities in a geographic area smaller than that of the state.

### **Patient medical record**

If a physician determines (1) that a requirement imposed by a state or local government entity is not evidence-based or medically accurate and (2) that observing the requirement is not appropriate for the patient, the physician must document his or her determination in writing in the patient's medical record. The documentation must include the physician's medical basis for the determination and must be maintained in the patient's medical record for at least six years.<sup>6</sup>

### **Standard of care**

The bill specifies that its provisions do not alter a physician's standard of care or abrogate the duty of a physician to meet the applicable standard of care.<sup>7</sup>

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<sup>3</sup> R.C. 4731.92(B)(1).

<sup>4</sup> R.C. 4731.92(B)(2).

<sup>5</sup> R.C. 4731.92(A)(5).

<sup>6</sup> R.C. 4731.92(C).

<sup>7</sup> R.C. 4731.92(D).

## Definitions

- **“Appropriate for the patient”** is defined as care that is consistent with applicable health and professional standards, the patient’s clinical and other circumstances, and the patient’s reasonably known wishes and beliefs.
- **“Evidence-based”** means the conscientious, explicit, and judicious use of the current best evidence, based on a systematic review of the relevant research, in making decisions about the care of individuals.
- **“Medically accurate”** is defined as information that is any of the following:
  - Verified or supported by the weight of peer-reviewed medical research conducted in accordance with accepted scientific methods;
  - Recognized as medically sound and objective by leading medical organizations with relevant expertise, federal government agencies, and leading national or international scientific advisory groups;
  - Recommended by or affirmed in the medical practice guidelines of a nationally recognized accrediting organization.<sup>8</sup>

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## HISTORY

Action	Date
Introduced	11-12-19

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<sup>8</sup> R.C. 4731.92(A).