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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 151  
133<sup>rd</sup> General Assembly

## Final Analysis

[Click here for H.B. 151's Fiscal Note](#)

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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 related to the Chiropractic Board, including provisions regarding acupuncture certificates, Board meetings, and the election of officers.

### Soliciting professional employment

- Authorizes certain health care practitioners and persons acting on their behalf to contact a party to a car accident to solicit employment, beginning 24 hours after an accident, via a limited number of telephone, email, text message, or letter contacts, in

place of the 30-day prohibition that continues to apply to contacting crime victims and witnesses.

- Provides that the limitation does not apply if the party being solicited was a previous purchaser of services from the health care professional and other conditions are met.
- Removes the Attorney General's authority to (1) enforce the communication restrictions in the act and those in continuing law and (2) impose fines for violations.

### **General qualified civil immunity**

- Clarifies the effect of government orders on the temporary civil immunity, granted by H.B. 606 of the 133<sup>rd</sup> General Assembly, for injuries caused by the transmission or contraction of or exposure to certain viruses.

### **Health care isolation center immunity**

- Through September 30, 2021:
  - Establishes a new, temporary qualified civil immunity for health care isolation centers providing services to patients during a declared disaster or emergency.
  - Grants immunity from tort liability and professional discipline for the services provided as a result of and in response to a disaster or emergency that result in injury, death, or loss allegedly resulting from (1) actions, omissions, or decisions related to those services and (2) 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.

### **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 act, unless the services are administered in a manner that constitutes willful or wanton misconduct.

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## DETAILED ANALYSIS

### Chiropractic Loan Repayment Program

The act 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.<sup>1</sup> ODH is to administer the program in cooperation with the Chiropractic Loan Repayment Advisory Board, which the act creates.

#### Eligibility

To be eligible to participate in the program, an individual must be either a student enrolled in the final year of chiropractic school or college or a chiropractor licensed by the State Chiropractic Board. In addition, the individual must not have received other student loan repayment assistance.<sup>2</sup>

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<sup>1</sup> R.C. 3702.98 to 3702.9810.

<sup>2</sup> R.C. 3702.984(A).

## **Educational expenses**

A chiropractor may seek reimbursement for tuition, room and board, and other expenses, including fees, books, and laboratory costs. With respect to room and board and other expenses, the amount must be determined reasonable by the ODH Director.<sup>3</sup>

## **Repayment amounts**

The Chiropractic Loan Repayment Advisory Board must determine the loan repayment amounts. No repayment may exceed \$10,000 in any year, and the total repayment cannot exceed \$30,000. If a repayment amount causes a participating chiropractor's tax liability to increase, the chiropractor may request reimbursement for the increase.<sup>4</sup>

## **Failure to complete service obligation**

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.<sup>5</sup>

## **Application**

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

- The applicant's name, address, and telephone number;
- The applicant's chiropractic school or college, the dates of attendance, and verification of attendance;
- A summary and verification of the educational expenses for which the applicant seeks reimbursement;
- If applicable, verification of the applicant's license to practice in Ohio; and
- Verification of U.S. citizenship or legal alien status.<sup>6</sup>

## **Priorities**

The ODH Director must establish, by rule, priorities for determining applicant eligibility. 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 sought.<sup>7</sup>

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<sup>3</sup> R.C. 3702.98.

<sup>4</sup> R.C. 3702.988.

<sup>5</sup> R.C. 3702.986(B)(4).

<sup>6</sup> R.C. 3702.984(B).

<sup>7</sup> R.C. 3702.983.

## **Approval of application and letter of intent**

The ODH Director must approve an application if:

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

After approving the application, the Director must notify the applicant and enter discussions 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.<sup>8</sup>

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.<sup>9</sup>

## **Participation contract**

On signing 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 the following obligations:

- 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;
- 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;
- The chiropractor meets the requirements for and enters into a Medicaid provider agreement to provide chiropractic services to Medicaid recipients;
- 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 act's limits; and
- The chiropractor agrees to pay ODH if the chiropractor fails to complete the service obligation.<sup>10</sup>

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<sup>8</sup> R.C. 3702.985.

<sup>9</sup> R.C. 3702.985.

<sup>10</sup> R.C. 3702.986.

The contract may include any other terms agreed upon by the parties, including ODH assuming the 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 to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

## **Statements**

By January 31 each year, ODH must mail each participant a statement listing the amount of the principal and interest that ODH repaid in the previous year.<sup>11</sup>

## **Chiropractic health resource shortage areas**

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.<sup>12</sup> 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 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 Director must 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 act 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.<sup>13</sup> It requires the Director to give greatest priority to chiropractic health resource shortage areas having a high ratio of population to chiropractors.

## **Rulemaking**

The ODH Director must adopt rules as necessary to implement and administer the program. In preparing rules, the Director must consult with the Chiropractic Loan Repayment Advisory Board.<sup>14</sup> The rules must be adopted in accordance with the Administrative Procedure Act.<sup>15</sup>

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<sup>11</sup> R.C. 3702.986(D).

<sup>12</sup> R.C. 3702.982.

<sup>13</sup> R.C. 3702.983.

<sup>14</sup> R.C. 3702.981.

<sup>15</sup> R.C. Chapter 119, not in the act.

## **Chiropractic Loan Repayment Advisory Board**

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

- One member of the House of Representatives, appointed by the Speaker;
- 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.<sup>16</sup>

### **Terms of office; no compensation**

Initial appointments must be made by February 22, 2021. Initial members serve staggered terms of one or two years, after which terms are for two years. A person may not serve more than two consecutive terms.

Each member holds office from the date of appointment until the end of the term for which 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. Members serve without compensation.

Vacancies are filled in the same manner as original appointments. A member appointed to fill a vacancy must hold office for the remainder of the predecessor's term. A member must continue in office after the member's term expires 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 chairperson. The Board must 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 act requires ODH to provide the Advisory Board with staff assistance as requested.

### **Advisory Board report**

The Advisory Board, annually by March 1, must submit to the Governor and General Assembly a report describing the program's operations during the previous year.<sup>17</sup>

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<sup>16</sup> R.C. 3702.987.

<sup>17</sup> R.C. 3702.989.



## **Funds in the state treasury**

To implement and administer the program, the act creates the following funds in the state treasury: the Chiropractic Health Resource Shortage Area Fund and Chiropractic Loan Repayment Fund.<sup>18</sup>

### **Gifts; damages from default**

The act 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 Chiropractic Health Resource Shortage Area Fund. All damages collected from program participants who fail to fulfill their service obligations must be paid into the Chiropractic Loan Repayment Fund.<sup>19</sup>

### **License renewal fee**

The State Chiropractic Board must deposit \$25 of each license renewal fee that it collects into the Chiropractic Loan Repayment Fund.<sup>20</sup> Under law not modified by the act, the biennial renewal fee for a chiropractic license is \$500.<sup>21</sup>

## **Animal chiropractic**

The act authorizes a chiropractor who is an animal chiropractic practitioner to practice animal chiropractic without supervision from a licensed veterinarian.<sup>22</sup> Animal chiropractic is defined by the act 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 excludes selling, distributing, recommending, or providing advice regarding vitamins, minerals, and related substances, over-the-counter drugs, or durable and nondurable medical goods and devices.<sup>23</sup>

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.<sup>24</sup>

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<sup>18</sup> R.C. 3702.9810.

<sup>19</sup> R.C. 3702.9810.

<sup>20</sup> R.C. 4734.25.

<sup>21</sup> Ohio Administrative Code (O.A.C.) 4734-7-01(B).

<sup>22</sup> R.C. 4734.15(C) and 4734.151(C)(1)(c).

<sup>23</sup> R.C. 4734.151(A)(2).

<sup>24</sup> R.C. 4734.151(A)(3).

The act 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 act 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.<sup>25</sup> However, chiropractors who are not animal chiropractic practitioners may assist licensed veterinarians under continuing law not modified by the act, so long as the chiropractor acts under direct veterinary supervision and other conditions in continuing law are met.<sup>26</sup>

### **Registration with Chiropractic Board**

The act requires animal chiropractic practitioners to register with the State Chiropractic Board in a manner specified by the Board. The Board must maintain and make public a list of registered animal chiropractic practitioners.<sup>27</sup>

### **Limitations and duties**

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

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;
4. A statement authorizing the chiropractor to provide animal chiropractic to the animal.

An animal chiropractic practitioner must 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.<sup>28</sup>

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<sup>25</sup> R.C. 4734.151(B).

<sup>26</sup> R.C. 4734.151(C)(2) and 4741.19(F), not in the act.

<sup>27</sup> R.C. 4734.151(C)(1)(a) and (E).

<sup>28</sup> R.C. 4734.151(C)(1) and (D).

## **Chiropractor discipline**

The act 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 continuing law related to the practice of chiropractic.

When the Chiropractic Board is conducting an investigation or taking action against a chiropractor related to the practice of animal chiropractic, the act requires the Board to retain as an expert witness a licensed veterinarian who is certified by an approved animal chiropractic credentialing organization.<sup>29</sup>

## **Veterinarian practice and liability**

The act 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.<sup>30</sup>

## **Rulemaking**

The act 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; and
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.<sup>31</sup>

## **Other Chiropractic Board changes**

### **Acupuncture certificates**

Continuing law authorizes the State Chiropractic Board to issue to licensed chiropractors certificates to practice acupuncture.<sup>32</sup> Each certificate expires annually and may be renewed.<sup>33</sup>

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<sup>29</sup> R.C. 4734.31(C) and (E).

<sup>30</sup> R.C. 4734.151(F).

<sup>31</sup> R.C. 4734.151(G).

<sup>32</sup> R.C. 4734.281, not in the act, and 4734.283.

<sup>33</sup> R.C. 4734.283 and 4734.284, not in the act.

The act extends the length of time that a certificate is valid from one year to two and requires the Board to establish a schedule for biennial expiration of certificates.<sup>34</sup>

The act also authorizes the Board to take any action it considers necessary for converting to a biennial expiration schedule.<sup>35</sup>

### **Annual meetings and elections**

The act eliminates the requirement that the Board hold an annual meeting in Ohio in September. It also requires elections for Board President to be held at the first Board meeting held in each odd-numbered year, rather than every other September.<sup>36</sup>

### **Soliciting professional employment**

The act makes several changes to Ohio 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.<sup>37</sup> The primary changes address contacting parties to car accidents.

#### **Soliciting parties to car accidents**

Under the act, 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:<sup>38</sup>

- Telephone contact, but not more than once in any 48-hour period;
- One contact through electronic mail;
- One contact through a text message;
- One letter delivered through the U.S. Postal Service (USPS).

However, these limitations do not apply if 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, and both (1) the party being solicited was a previous purchaser of services from the health care professional, and (2) the solicitation is

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<sup>34</sup> R.C. 4734.283.

<sup>35</sup> Section 3.

<sup>36</sup> R.C. 4734.04. and 4734.05.

<sup>37</sup> R.C. 1349.05.

<sup>38</sup> R.C. 1349.05(D)(1) and (2).

made under the same business or professional name that was previously used to sell services to the party|. <sup>39</sup>

Prior law was unclear in that it prohibited, until 30 days after a car accident, in-person, telephone, and electronic contact, but also specified that any communication to obtain professional employment be sent via the USPS. As part of the changes described above, the act eliminates the USPS requirement. <sup>40</sup>

### **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 act generally maintains preexisting limitations on contact until 30 days after a car accident, except it clarifies the law by removing the requirement that any communication to obtain professional employment be sent through USPS. 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 act's new communication provisions described above). <sup>41</sup>

### **Other changes regarding soliciting professional employment**

The act 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. If a violation is found on three separate occasions, the act continues the requirement that the licensing agency suspend the person's license. Under law removed by the act, the Attorney General was authorized to impose fines. <sup>42</sup>

### **General qualified civil immunity**

The act 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. <sup>43</sup> House Bill 606 of the 133<sup>rd</sup> 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

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<sup>39</sup> R.C. 1349.05(D)(3).

<sup>40</sup> R.C. 1349.05(B) and (C).

<sup>41</sup> R.C. 1349.05(B) and (C).

<sup>42</sup> R.C. 1349.05(E).

<sup>43</sup> Section 4.

act 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.<sup>44</sup>

## **Health care isolation center immunity**

The act establishes, through September 30, 2021, 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.<sup>45</sup> 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.<sup>46</sup>

### **Temporary qualified civil immunity**

Under the act, 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:

- 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; or
- Compliance with an executive order or director's order issued during and in response to the disaster or emergency.<sup>47</sup>

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.<sup>48</sup>

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

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<sup>44</sup> Section 4.

<sup>45</sup> Section 7(A)(5).

<sup>46</sup> 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>.

<sup>47</sup> Section 7(B)(1).

<sup>48</sup> Section 7(C)(5).

declared to be a disaster by the federal government, the state government, or a political subdivision of Ohio. 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.<sup>49</sup>

“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.<sup>50</sup> 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.<sup>51</sup>

### **Inability to provide services**

The act 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.<sup>52</sup>

### **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.<sup>53</sup>

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<sup>49</sup> Section 7(A)(2) and (3), referencing R.C. 5502.21.

<sup>50</sup> Section 7(A)(6); R.C. 3721.01, not in the act.

<sup>51</sup> Section 7(A)(11).

<sup>52</sup> Section 7(B)(4).

<sup>53</sup> Section 7(A)(10) and (B)(2).

## **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).<sup>54</sup>

## **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.<sup>55</sup>

## **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.<sup>56</sup> While the act's immunity is in effect, with respect to health care isolation centers, it supersedes law (unchanged by the act) that grants immunity to certain health care providers who render emergency services as a result of a disaster.<sup>57</sup>

## **Class action prohibition**

When the immunity does not apply, the act prohibits bringing a class action against a health care isolation center.<sup>58</sup>

## **Emergency medical services in additional settings**

### **Expansion of services to any setting**

The act temporarily broadens – until July 1, 2021<sup>59</sup> – the settings in which first responders and emergency medical technicians (EMTs) are authorized to provide emergency medical services. Under the act, those services may be provided in any setting, including any area of a hospital.<sup>60</sup> Without the act, Ohio law (1) does not authorize a first responder to

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<sup>54</sup> Section 7(A)(4) and (B)(3).

<sup>55</sup> Section 7(C)(3).

<sup>56</sup> Section 7(C)(1), (2), and (4).

<sup>57</sup> Section 7(E); R.C. 2305.2311, not in the act.

<sup>58</sup> Section 7(D).

<sup>59</sup> Section 8(B).

<sup>60</sup> Section 8(B).



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.<sup>61</sup>

The temporarily expanded authority applies to first responders, as well as to each of the three categories of EMTs certified under continuing law: EMTs-basic, EMTs-intermediate, and EMTs-paramedic.<sup>62</sup> In order to perform emergency medical services in any setting as authorized by the act, a first responder or EMT must be under the direction and supervision of a physician, physician assistant designated by a physician, or advanced practice registered nurse designated by a physician.<sup>63</sup>

### Qualified immunity

The act 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.<sup>64</sup>

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## 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	11-18-20
Passed Senate (32-0)	11-18-20
House concurred in Senate amendments (86-3)	11-19-20

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<sup>61</sup> R.C. 4765.35 and 4765.36, not in the act.

<sup>62</sup> 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.

<sup>63</sup> Section 8(B).

<sup>64</sup> Section 8(C)