



Ohio Legislative Service Commission

Bill Analysis

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S.B. 194

129th General Assembly
(As Introduced)

Sens. Gillmor and Oelslager, Tavares

BILL SUMMARY

- Prohibits health plan issuers from requiring that a non-self-injectable drug, or a drug that must be compounded immediately, be delivered directly to a covered person.
- Restricts changes that health plan issuers can make to cancer chemotherapy treatment coverage.
- Prohibits pharmacists from delivering non-self-injectable medications directly to the home of a covered person, unless certain conditions are met.
- Names the act the "Robert L. Schuler Act."

CONTENT AND OPERATION

Overview

The bill prohibits health plan issuers from requiring that non-self-injectable drugs be delivered directly to a covered person's home and restricts the changes that a health plan issuer can make to coverage for cancer chemotherapy treatments. The bill applies to all health plan issuers, including health insuring corporations, sickness and accident insurers, multiple employer welfare arrangements,¹ and public employee health plans.

¹ R.C. 1739.05(B).

Home delivery of drugs

The bill prohibits health plan issuers from requiring that a non-self-injectable medication, or medication that must be compounded immediately prior to administration, or both, be delivered directly to a covered person.²

Coverage for chemotherapy treatments

The bill restricts the changes that health plan issuers can make to cancer chemotherapy treatment coverage. Under the bill, health plan issuers are prohibited from providing less favorable coverage for orally administered medication than for intravenously or injected medications.³ Additionally, health plan issuers are prohibited from reducing coverage to levels lower than those in place on the effective date of the bill for orally, intravenously, or injected cancer chemotherapy medications by doing any of the following:

- Providing less favorable coverage through changes to coverage limits, co-payments, co-insurance, deductibles, or other out-of-pocket expenses;⁴
- Moving any such medication to a higher price tier;⁵
- Imposing stricter conditions on treatments that use such medications.⁶

However, these prohibitions do not preclude a health plan issuer from requiring prior authorization before orally administered cancer medications are dispensed to a covered person.⁷

Violations

The bill makes provision for violations of the drug-delivery and the chemotherapy medication prohibitions described above and authorizes the Superintendent of Insurance to hold hearings to determine if such a violation has occurred.⁸

² R.C. 1751.68(B) and 3923.84(B).

³ R.C. 1751.69(A)(1) and 3923.85(A)(1).

⁴ R.C. 1751.69(A)(2) and 3923.85(A)(2).

⁵ R.C. 1751.69(A)(3) and 3923.85(A)(3).

⁶ R.C. 1751.69(A)(4) and 3923.85(A)(4).

⁷ R.C. 1751.69(B) and 3923.85(B).

⁸ R.C. 1751.68(C), 1751.69(C), 3923.84(C), and 3923.85(C).

Penalties

If the Superintendent of Insurance, by written order, finds that a violation has occurred, the Superintendent may levy one or more of the following penalties:

- Issue a cease and desist order;
- Suspend or revoke the violator's license (or certificate of authority in the case of a health insuring corporation);
- Order the violator to neither employ, nor hire in any capacity, any individual associated with the violation for a period the Superintendent determines would best serve the public interest.⁹

Fines

In addition, the bill authorizes the Superintendent to impose either or both of the following civil penalties:

- A civil penalty of up to \$35,000 in total for one or more violations occurring in a six-month period;¹⁰
- A civil penalty of up to \$10,000 for each violation of a cease and desist order issued.¹¹

Any amounts collected related to these penalties are to be deposited into the Department of Insurance Operating Fund and used to enforce the prohibitions made in the bill.¹²

Pharmacists

The bill prohibits pharmacists and pharmacy interns from delivering non-self-injectable medications directly to the home of a covered person, unless all of the following are met:

- The covered person lives in a nursing home, or similar facility;
- The facility has consented to the delivery;

⁹ R.C. 1751.35(A)(15), 1751.68(D), 1751.69(D), 3923.84(D), and 3923.85(D).

¹⁰ R.C. 1751.68(E)(1), 1751.69(E)(1), 3923.84(E)(1), and 3923.85(E)(1).

¹¹ R.C. 1751.68(E)(2), 1751.69(E)(2), 3923.84(E)(2), and 3923.85(E)(2).

¹² R.C. 1751.68(F), 1751.69(F), 3923.84(F), and 3923.85(F).

- The delivery does not violate the policies of the facility.¹³

Any pharmacist that made such a violation would be subject to the disciplinary authority of the Ohio State Board of Pharmacy and could lose the right to practice pharmacy and be subject to a monetary penalty or forfeiture of not more than \$500.¹⁴

Exemption from review by the Superintendent of Insurance

The requirements of this bill regarding coverage for chemotherapy treatments may be considered mandated health benefits. Under R.C. 3901.71, no mandated health benefits legislation enacted by the General Assembly may be applied to any policy, contract, plan, or other arrangement providing sickness and accident or other health benefits until the Superintendent of Insurance determines, pursuant to a hearing conducted in accordance with the Administrative Procedure Act,¹⁵ that the provision can be applied fully and equally in all respects to (1) employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and (2) employee benefit plans established or modified by the state or any political subdivision of the state, or by any agency or instrumentality of the state or any political subdivision of the state. The bill includes provisions that exempt its requirements from this restriction.¹⁶

HISTORY

ACTION	DATE
Introduced	07-05-11

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¹³ R.C. 4729.43(B).

¹⁴ R.C. 4729.16(A)(5).

¹⁵ R.C. Chapter 119.

¹⁶ R.C. 1751.69(A) and 3923.85(A).