
DEPARTMENT OF HEALTH

Smoking related provisions

School smoking prohibitions

- Extends to all individuals, the prohibition from smoking, using tobacco, or possessing any substance that contains tobacco in any area under the control of a school district or an educational service center (ESC) or at any school-supervised activity, and expands the prohibition to include outdoor facilities.
- Prohibits pupils from using nicotine or possessing any substance containing nicotine in any area under the control of a school district or ESC, including any outdoor facilities, or at any school-supervised activity.

Food service operation license

- Authorizes a food service operation licenser to revoke a license when the license holder has acquired, within a period of two years, three or more violations for failure to enforce or observe smoking prohibitions, or because the license holder has failed to pay an associated civil fine of more than \$1,000.
- Specifies that a decision to revoke a food service operation license may be appealed.

Violation of smoking prohibitions

- Requires a proprietor of a public place or place of employment to permit an officer or employee of the Ohio Department of Health (ODH) prompt entry to investigate complaints against the proprietor regarding smoking.
- Requires ODH to adopt rules to prescribe fines for violations committed by retail tobacco stores regarding filings with ODH for exemption from smoking prohibitions.
- Specifies that such a violation is not included in the progressive fine schedule created by ODH.

Policy for state institutions of higher education

- Requires the Department of Higher Education and ODH to develop, not later than six months after the effective date of the provision, a model policy regarding the use of tobacco at state institutions of higher education.



- Requires state institutions of higher education to adopt, not later than 12 months after the model policy is developed, policies that are not less stringent than the model policy.

Uterine cytologic exams (pap smears) in hospitals

- Changes the law that requires hospitals to offer uterine cytologic exams (pap smears) to female inpatients by (1) making the offer permissive instead of mandatory for hospitals, (2) raising the minimum age from 18 to 21, and (3) requiring hospitals that offer the exams to record the results or the patient's decision to decline the exam.

State-level review of child deaths

- Requires the ODH Director to establish guidelines for the state-level review of deaths of children under 18 years of age.
- Allows the ODH Director to access certain information when reviewing a death, provides for immunity for civil liability for persons participating in a review, and prohibits the dissemination of confidential information gathered during a review.

Distribution of money from the "Choose Life" Fund

- Authorizes the ODH Director to distribute money in the "Choose Life" Fund that is allocated to a county to an eligible organization located in a noncontiguous county so long as:
 - No eligible organization located within the county to which the money is allocated or a contiguous county has applied for the money; and
 - The eligible organization from the noncontiguous county provides services within the county to which money is allocated.

Public Health Emergency Preparedness Fund

- Creates in the state treasury the Public Health Emergency Preparedness Fund, and requires ODH to use money in the Fund to pay expenses related to public health emergency preparedness and response activities.

Physician and Dentist Loan Repayment programs

- Modifies the limit on the amount of state funds that may be repaid on behalf of a physician participating in the Physician Loan Repayment Program or a dentist participating in the Dentist Loan Repayment Program.



- Includes providing clinical education in the teaching activities that count towards the service hours of a participating dentist.

Signature on vital records

- Repeals a provision that requires birth, fetal death, and death records and certificates be printed legibly or typewritten in unfading black ink and prohibits facsimile signatures.
- Permits signatures on records, certificates, and reports authorized under the Vital Statistics Law to be made by photographic, electronic, or other means prescribed by the ODH Director.

Noncertified copy of birth or death record

- Requires a local registrar to issue a noncertified copy of a birth or death record.

Immunizations

- Specifies that, beginning January 1, 2016, ODH will no longer provide GRF-funded vaccines from appropriation line item 440418, Immunizations, except in specified circumstances.

WIC vendor contracts

- Requires ODH to process an application for a Women, Infants, and Children (WIC) vendor contract within 45 days if the applicant already has a WIC vendor contract.

Health insurer required provision of information

- Requires insurers offering health benefit plans through an exchange to make available a list of the top 20% of services and an insured's expected contribution for each service.

Ohio hospital report card

- Requires the Executive Director of the Office of Health Transformation to develop, in consultation with a hospital association selected by the Executive Director, the Ohio hospital report card.
- Requires the report card to (1) be available on a public website and (2) provide information about the clinical outcomes and other data to allow consumers to compare health care services at different hospitals.



Ohio All-Payer Health Claims Database

- Requires the Executive Director of the Office of Health Transformation to create the Ohio All-Payer Health Claims Database that permits the public to access information about health claims among different medical providers.
- Grants the Executive Director authority needed to create, maintain, and maintain the integrity of the database and the authority to share data for larger scale databases.
- Creates the Ohio All-Payer Health Claims Database Advisory Committee to provide recommendations to the Executive Director in developing the database.

Health care cost information for nonemergency services

- Requires a health care provider to provide certain cost information (including out-of-pocket charges) to a patient or patient's representative before dispensing a prescription drug or providing a medical product or service unless an emergency exists.
- Prohibits a health care provider, except in an emergency, from dispensing a prescription drug or providing a medical product or service unless the patient or the patient's representative consents to paying the out-of-pocket charge.

Health care provider advertising

- Permits a health care provider to advertise the provider's usual and customary charge for any procedure or service the provider performs or renders.
- Specifies that any provision in a contract that prohibits this advertising is void.

Hope for a Smile Program

- Establishes the Hope for a Smile Program with a specified primary objective of improving the oral health of school-age children, particularly those who are indigent and uninsured.
- Requires the Director of Health to secure, maintain, and operate a bus as a mobile dental unit.
- Creates a state income tax deduction, to be used by a dentist or dental hygienist beginning with taxable years beginning in 2015, equal to the fair market value of the services provided for free under the program.



Smoking related provisions

School smoking prohibitions

(R.C. 3313.751)

The bill extends to all individuals, instead of just students as under current law, the prohibition from smoking, using tobacco, or possessing any substance derived from tobacco in any area under the control of a school district or an educational service center (ESC) or at any school-supervised activity. The bill also expands the prohibition to include outdoor facilities and to prohibit students from using nicotine or possessing any substance containing nicotine.

The board of education of a school district and ESC must adopt a policy providing for enforcement of the smoking and tobacco-use prohibition against all persons. And the board must adopt a policy establishing disciplinary measures for a violation of the smoking and tobacco-use prohibition, presumably by students.

For purposes of these provisions, to "smoke" means to burn any substance containing tobacco, including a lighted cigarette, cigar, or pipe, or to burn a clove cigarette. To "use tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, or any substance derived from tobacco, in the mouth to derive the effects of tobacco. And to "use nicotine" means to maintain any substance containing nicotine or a similar substance intended for human consumption or to consume nicotine or a similar substance, whether by means of smoking, heating, chewing, absorbing, dissolving, or ingesting by any other means.

The term "use nicotine" does not include use of nicotine replacement therapy products. These products are smoking or nicotine cessation products that have been approved by the U.S. Food and Drug Administration as nicotine replacement therapy products.

Food service operation license

(R.C. 3717.49)

The bill authorizes a licenser of food service operations to revoke a license upon determining that the license holder has acquired, within a period of two years, three or more violations for failure to enforce or observe certain smoking prohibitions. The licenser also is authorized to revoke a license when the licenser determines that the license holder has failed to pay a civil fine greater than \$1,000 associated with such a violation. Only violations or fines that occur after the effective date of these provisions



are subject to the provisions. The bill specifies that the license holder may appeal a revocation under the appeals process in continuing law.

Violation of smoking prohibitions

(R.C. 3794.06 and 3794.07)

The bill requires proprietors of public places or places of employment to permit prompt entry of an officer or employee of the Ohio Department of Health (ODH) or its designee to investigate complaints made against the proprietor regarding smoking prohibitions. A proprietor's failure to permit prompt entry is a violation of the Non-Smoking Law.

The bill requires ODH to adopt rules to prescribe fines for violations committed by retail tobacco stores regarding filings with ODH for an exemption from the smoking prohibitions. Continuing law requires ODH to establish a schedule of fines for violations of smoking laws. The schedule of fines must be progressive based on the number of prior violations by a proprietor. The bill exempts fines charged for violations regarding filings with ODH for the retail tobacco store exemption from this progressive schedule of fines.

Policy for state institutions of higher education

(Section 733.10)

The bill requires the Department of Higher Education and ODH to develop, not later than six months after the effective date of the provision, a model policy regarding the use of tobacco at state institutions of higher education. State institutions of higher education must adopt, not later than 12 months after the model policy is developed, policies that are not less stringent than the model policy.

Uterine cytologic exams (pap smears) in hospitals

(R.C. 3701.60)

Uterine cytologic examinations (commonly referred to as pap smears) can detect early cancers of the cervix, which is the lower part of the uterus. The bill permits public and nonprofit hospitals to offer these exams to every female patient age 21 or older who has been admitted on an in-patient basis, unless the exam is contrary to the attending physician's orders or has been performed within the preceding year. This provision replaces the mandate of current law, which requires a hospital to offer the exam to every inpatient female age 18 or older, unless the exam is contrary to the attending physician's orders or has been performed within the preceding year.



Both the bill and current law permit the patient to refuse the exam. If a hospital offers the exam, the bill requires it to maintain records of the results or to record that the exam was refused.

State-level review of child deaths

(R.C. 121.22, 149.43, 2151.421, 3701.045, 3701.70, 3701.701, 3701.702, 3701.703, and 4731.22)

ODH Director to establish guidelines

The bill requires the ODH Director to establish guidelines for a state-level review of the deaths of children under 18 years of age who, at the time of death, were Ohio residents. The bill largely parallels current law provisions regulating county and regional child fatality review boards. Existing law, unchanged by the bill, permits a county, or group of counties, to establish a county or regional child fatality review board to review the deaths of children under 18 years of age who were residents of the county or region at the time of death. Current law also requires that each county or regional board report its findings to ODH.

Purpose

The bill specifies that the purpose of a review of child death conducted by the Director pursuant to the guidelines is to decrease the incidence of preventable child deaths by doing all of the following:

- (1) Promoting cooperation, collaboration, and communication between all groups, professions, agencies, or entities that serve families and children;
- (2) Maintaining a comprehensive database of child deaths that occur in Ohio in order to develop an understanding of the causes and incidence of those deaths;
- (3) Recommending and developing plans for implementing state and local service and program changes and changes to the groups, professions, agencies, or entities that serve families and children that prevent child deaths.

No review during pending investigation

The bill specifies that, under the guidelines, the Director may not conduct a review of the death of a child while an investigation of the child's death or prosecution of a person for causing the death is pending, unless the prosecuting attorney agrees to allow the review. Moreover, the bill provides that a person, entity, law enforcement agency, or prosecuting attorney may not provide any information regarding the death of a child to Director while an investigation of the death or prosecution of a person for



causing the death is pending, unless the prosecuting attorney agrees to allow the review. The bill requires that, on the Director's request, a law enforcement agency or prosecuting attorney, on the conclusion of an investigation or prosecution, notify the ODH Director of the conclusion.

Information provided to the Director

The bill requires that, on the request of the Director, any individual, public children services agency, private child placing agency, or agency that provides services specifically to individuals or families, law enforcement agency, or other public or private entity that provided services to a child whose death is being reviewed by the Director pursuant to the guidelines, submit a summary sheet of information to the Director.

In the case of a health care entity, the sheet must contain only information available and reasonably drawn from the child's medical record created by the entity. With respect to a child one year of age or younger whose death is being reviewed by the Director, on the request of the Director, a health care entity that provided services to the child's mother must submit to the Director a summary sheet of information available and reasonably drawn from the mother's medical record created by the health care entity. Before submitting the sheet, the entity must attempt to obtain the mother's consent to do so, but a lack of consent does not preclude the entity from submitting the sheet.

In the case of any other entity or individual, the sheet must contain only information available and reasonably drawn from any record involving the child that the individual or entity develops. In addition, the bill provides that, on the request of the Director, an individual or entity may, at the individual's or entity's discretion, make any additional information, documents, or reports available to the Director.

Access to certain confidential information

The bill allows the Director, when conducting a review pursuant to the guidelines, access to any confidential report of child abuse or neglect that was provided to law enforcement or a public children services agency. The bill also requires that the Director preserve the confidentiality of such a report.

Use of information obtained by the Director

The bill provides that all of the following are confidential and may be used by the Director or a person participating in the review of a child's death pursuant to the guidelines only in the exercise of ODH's proper functions:



- (1) Any information, document, or report presented to the Director;
- (2) All statements made by those participating in a review;
- (3) All work products of the Director.

Under the bill, a person who knowingly permits or encourages the unauthorized dissemination of confidential information is guilty of a misdemeanor of the second degree.

Civil immunity

Under the bill, an individual or public or private entity providing information, documents, or reports to the Director is immune from civil liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing the information, documents, or reports to the Director. In addition, the bill provides that each person participating in the review is immune from civil liability for injury, death, or loss to person or property that might otherwise be incurred or imposed as a result of the person's participation.

Open meetings and public records law

Current law provides that, with certain exceptions, "all meetings of any public body are declared to be public meetings open to the public at all times." At present, the exceptions include meetings of a county or regional child fatality review board. Under the bill, meetings related to a review of a child's death by the Director are not meetings that must be open to the public at all times.

Existing law also requires that, upon request, records kept by any public office be promptly prepared and made available for inspection. The bill specifies that, in the case of a review of a child's death by the Director, all of the following are not public records:

- (1) Records provided to the Director;
- (2) Statements made by persons participating in the Director's review;
- (3) All work products of the Director.

Currently, the records, statements, and work products of a county or regional child fatality review board are not public records.



Distribution of money from the "Choose Life" Fund

(R.C. 3701.65)

The bill allows the ODH Director to distribute money from the "Choose Life" Fund that has been allocated to a county to an eligible organization within a noncontiguous county, so long as the organization provides services in the county for which the funds have been allocated and no eligible organization located within that county or a contiguous county applies for the money. The existing "Choose Life" Fund consists of contributions that are paid to the Registrar of Motor Vehicles by applicants who voluntarily elect to obtain "choose life" license plates. Money from the Fund is allocated to each county in proportion to the number of "choose life" license plates issued during the preceding year to vehicles registered in the county.

Under current law, the funds allocated for each county must be equally distributed to eligible organizations within the county that apply for funding. However, if no eligible organization located within the county applies, the funds may be allocated to eligible organizations located in contiguous counties. An eligible organization is a nonprofit organization that meets all of the following requirements:

- (1) Is a private, nonprofit organization;
- (2) Is committed to counseling pregnant women about the option of adoption;
- (3) Provides services to pregnant women who are planning to place their children for adoption, including counseling and meeting the material needs of the women;
- (4) Does not charge women for any services received;
- (5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising; and
- (6) Does not discriminate in its provision of any services on the basis of race, religion, color, age, marital status, national origin, handicap, gender, or age.

Public Health Emergency Preparedness Fund

(R.C. 3701.834; Section 289.50)

The bill creates the Public Health Emergency Preparedness Fund in the state treasury. All federal funds that ODH receives to conduct public health emergency preparedness and response activities must be credited to the Fund. The bill requires



ODH to use money in the Fund to pay expenses related to public health emergency preparedness and response activities.

Physician and Dentist Loan Repayment programs

Limit on state funds

(R.C. 3702.74 and 3702.91)

The bill makes various changes to the Physician Loan Repayment Program and the Dentist Loan Repayment Program, which offer funds to repay some or all of the educational loans of physicians and dentists who agree to provide primary care or dental services in health resource shortage areas.

The bill modifies the limit on the amount of state funds that are used for repayment made on behalf of a participating physician or dentist whose repayment also includes federal funds. Under current law, the amount of state funds included in a participant's repayment must equal the amount of federal funds that are included in the repayment if the source of the federal funds is the Bureau of Clinician Recruitment and Services (BCRS) in the U.S. Department of Health and Human Services. The bill eliminates the provision that applies the limit only to those participants whose repayment includes funds from the BCRS. Thus, under the bill, if a participant's repayment includes funds from any federal source, the amount of state funds included in a participant's repayment must equal the amount of those federal funds.

Teaching activities

(R.C. 3702.91(A))

With respect to the Dental Loan Repayment Program, current law permits teaching activities to count as service hours only if they involve supervising dental students and dental residents at the service site. The bill provides instead that teaching activities means providing clinical education to dental students and residents and dental health profession students at the service site.

Signatures on vital records

(R.C. 3705.08)

The bill changes current law requirements for signatures on vital records to permit signatures to be made by electronic means. Under current law, all birth, fetal death, and death records and certificates must be printed legibly or typewritten in unfading black ink and facsimile signatures are prohibited. The bill repeals those



provisions and expressly states that required signatures may be filed and registered by means prescribed by the ODH Director, including by electronic means.

Noncertified copy of birth or death record

(R.C. 3705.231)

The bill requires a local registrar to issue, on receipt of a signed application for a birth or death record and a fee, a noncertified copy of a birth or death record. The copy must contain at least the name, sex, date of birth or death, registration date, and place of birth or death of the person whose birth or death the record attests to. The copy also must attest that the person's birth or death has been registered. The bill allows a local registrar to charge up to 25 cents per page for a black and white copy, and, for a color copy, an amount not to exceed the amount the registrar expends in producing the color copy. Continuing law requires a local registrar and other entities to issue a certified copy of a vital record upon payment of a fee prescribed by the Director of Health, which must be at least \$12.⁹⁴

Immunizations

(Section 289.30)

The bill specifies that, beginning January 1, 2016, ODH will no longer provide general revenue funded (GRF-funded) vaccines from appropriation line item 440418, Immunizations. Local health departments and other local providers who receive GRF funding for vaccines from ODH before January 1, 2016 must instead bill private insurance companies, as appropriate, to recover the costs of providing and administering vaccines. The bill, however, allows ODH to continue to provide GRF-funded vaccines in the following circumstances: (1) to cover uninsured adults, (2) to cover individuals on grandfathered private insurance plans that do not cover vaccines, and (3) in certain exceptional cases determined by the ODH Director.

WIC vendor contracts

(Section 289.40)

In Ohio, ODH administers the federal Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The act requires that during fiscal years 2016 and 2017 ODH review and process a WIC vendor contract application not later than 45 days after it is received if on that date the applicant is a WIC-contracted vendor and meets all of the following requirements:

⁹⁴ R.C. 3705.24(A)(2). An additional \$1.50 per copy is collected under R.C. 3705.242.



(1) Submits a complete WIC vendor application with all required documents and information;

(2) Passes the required unannounced preauthorization visit within 45 days of submitting a complete application;

(3) Completes the required in-person training within 45 days of submitting the complete application.

ODH must deny the application if the applicant fails to meet all of the requirements. After an application has been denied, the applicant may reapply for a contract to act as a WIC vendor during the contracting cycle of the applicant's WIC region.

Health insurer required provision of information

(R.C. 3901.241)

The bill requires an insurer offering a health benefit plan through a health benefit exchange established pursuant to the Patient Protection and Affordable Care Act of 2010, to make available for individuals seeking information on the plan a list of the top 20% of services utilized by individuals insured by the insurer. The list must include an enrollee's expected contribution for each service both when the enrollee has and has not met any associated deductibles. "Expected contribution" includes any copayments or cost sharing amounts that an enrollee is expected to pay under the plan.

The bill specifies that an insurer that does not meet this requirement is guilty of an unfair and deceptive act or practice in the business of insurance, the penalties for which include a cease and desist order, civil penalties up to \$35,000, and suspension or revocation of the insurer's license.

Ohio hospital report card

(R.C. 3727.70)

The bill requires the Executive Director of the Office of Health Transformation to create an annual hospital report card within two years of the provision's effective date. The hospital report card must be available on a public website in a manner that allows members of the public to view and compare information for specific hospitals. The website must include any additional information the Executive Director determines is necessary to enhance decision-making among consumers.

The bill requires the Executive Director to develop the hospital report card in consultation with a hospital association selected by the Executive Director pursuant to



the bill (see "**Hospital association**") and to develop a comprehensive hospital information system to allow for the collection, compilation, indexing, and utilization of hospital-related data that will be used to create the hospital report card. The bill permits the Executive Director to contract with any individual or entity to carry out the Executive Director's duties with respect to the hospital report card.

Duties of the Executive Director

(R.C. 3727.71)

The bill requires the Executive Director to do all of the following:

- Develop, along with the selected hospital association, a long-range plan to create the hospital report card;
- Do all of the following in developing the hospital report card:
 - Include data on all hospital patients regardless of the payer source and other information that may be required for purchasers to assess the value of the hospital health care services;
 - Use standardized clinical outcomes measures recognized by national organizations that establish standards to measure the performance of health care providers;
 - Use data that is severity- and acuity-adjusted using statistical methods that show variation in reported outcomes, where applicable, and data that has passed standard edits;
 - Report the results with separate documents containing the technical specification and measures;
 - Use standardized reporting;
 - Disclose the methodology of reporting.
- Submit an initial plan and a report on the status of implementation to the Governor, Speaker of the House of Representatives, and President of the Senate with copies to all members of the General Assembly and available on a public website. The plan must identify the process and time frames for implementation, barriers to implementation, and recommendations of changes in the law for the elimination of the barriers.
- Submit an annual update to the initial plan and status report;

- Establish procedures by which all licensed hospitals receive a draft of the annual report card and are given 30 days to submit written comments to the Office of Health Transformation.

The bill requires the initial plan and status report to be submitted within one year of the provision's effective date.

Hospital association

(R.C. 3727.72 and 3727.75)

The bill requires the Executive Director to develop the hospital report card in consultation with a hospital association. The bill requires the Executive Director to select the hospital association within one year of the provision's effective date. The bill requires the selected association to provide (1) a copy of the association's organizational documents and other rules and regulations governing the association's activities, (2) a list of the association's members and the name and address of a representative of the association who is an Ohio resident who can receive notice or orders from the Executive Director, and (3) a plan to create the hospital report card, with specific reference to how the interests of health care consumers will be considered in developing the report card. The association must provide the Executive Director with the plan and a status report of the development and implementation of the report card within 16 months of the provision's effective date.

The bill specifies that a hospital association or its employees, agents, or designees or the designees of the Executive Director of the Office of Health Transformation is not liable in a civil action for any actions taken or omitted in the performance of their powers and duties relating to the hospital report card.

Suspension or revocation

(R.C. 3727.73)

The bill permits the Executive Director to suspend or revoke the acceptance of the selected hospital association if (1) it reasonably appears that the association will not be able to carry out its duties, (2) the association does not provide the Executive Director with the required plan and status report, or (3) fails to meet any other requirements set out under the bill.

Ohio Commission for Hospital Statistics

(R.C. 3727.74)

In the event the Executive Director suspends or revokes the selected hospital association's acceptance, the bill creates the Ohio Commission for Hospital Statistics. The bill requires the Executive Director to adopt rules establishing the creation, initial appointments, and operation of the Commission that specify all of the following:

- The Commission will consist of nine members, who shall be appointed by the Governor as follows:
 - Three members representing hospitals registered under Ohio law;
 - Two members representing individuals authorized to practice a health care profession under Ohio law;
 - Four members representing consumers or businesses without any direct interest in registered hospitals.
- At no time may the Commission have more than five members of any one political party.
- Members of the Commission serve without compensation but will receive payment for their actual and necessary expenses incurred in the conduct of official business.
- The Commission must annually elect the chair of the Commission from its members.
- A majority of the Commission constitutes a quorum.
- The Commission must meet at least once during each calendar quarter. Meeting dates must be set upon written request by three or more members of the Commission or by a call of the chair upon five days' notice to the members.
- Action of the Commission cannot be taken except upon the affirmative vote of a majority of a quorum of the Commission.
- All meetings of the Commission are to be open to the public.



Ohio All-Payer Health Claims Database

(R.C. 3728.01(B))

The bill requires the Office of Health Transformation to create the Ohio All-Payer Health Claims Database (health claims database) for the public to access information about health claims among different medical providers. The bill requires the health claims database to (1) be available to the public in a form and manner that ensures the privacy and security of personal health information, as required by federal and state law, as a resource to the public to allow for continuous review of health care utilization, expenditures, and quality and safety performance in Ohio, (2) be available to both public and private entities engaged in efforts to improve health care, and (3) present data in a consumer-friendly manner that allows for comparisons of geographic, demographic, and economic factors and institutional size.

Ohio All-Payer Health Claims Database Advisory Committee

(R.C. 3728.02 and 3728.01(A))

The bill creates the Ohio All-Payer Health Claims Database Advisory Committee (Committee) and tasks the Committee with providing the Office of Health Transformation with recommendations for developing the health claims database. Within 45 days of the provision's effective date, the Governor must appoint the following members to the Committee:

- One member of academia with experience in health care data and cost efficiency research;
- One representative of the Ohio Hospital Association;
- One representative of the Ohio State Medical Association;
- One representative of the Ohio Osteopathic Association;
- One representative of small businesses that purchase group health insurance for employees who is not a supplier or broker of health insurance;
- One representative of large businesses that purchase health insurance for employees who is not a supplier or broker of health insurance;
- One representative of self-insured businesses who is not a supplier or broker of health insurance;



- One representative of an organization that processes insurance claims or certain aspects of employee benefit plans for a separate entity;
- One representative of a nonprofit organization that demonstrates experience working with employers to enhance value and affordability in health insurance;
- One individual with a demonstrated record of advocating health care privacy issues on behalf of consumers;
- One individual with a demonstrated record of advocating general health care issues on behalf of consumers;
- Two representatives of the Ohio Association of Health Plans: one representing for-profit insurers and one representing nonprofit insurers.
- One representative from the mental health and addiction field that has experience in behavioral health data collection;
- One representative of the Ohio Pharmacists Association;
- One representative of pharmacy benefit managers;
- Two representatives of nonprofit organizations that facilitate health information exchange to improve health care in Ohio.

The following individuals will serve as nonvoting members of the Committee:

- The Executive Director of the Office of Health Transformation;
- The Director of Administrative Services;
- The Superintendent of Insurance or the Superintendent's designee;
- One representative from the Office of Information Technology;
- One member of the majority party of the House of Representatives;
- One member of the minority party of the House;
- One member of the majority party of the Senate;
- One member of the minority party of the Senate.



The bill requires two members of the Committee to reside in a rural community with a population of less than 50,000 or who represent rural interests.

Termination of the Committee

(R.C. 3728.08 and 3728.02(D))

Under the bill, the Committee will cease to exist upon the creation of the health claims database and all appointments to the Committee will end on that date. If a vacancy occurs before that date, a successor must be appointed who has the same qualifications as the vacancy requires.

Recommendations

(R.C. 3728.03)

The bill requires the Committee, within six months of its creation, to make recommendations about creating the health claims database to the Executive Director of the Office of Health Transformation. The recommendations must do all of the following:

- Include specific strategies to measure and collect data related to health care safety and quality, utilization, health outcomes, and cost;
- Focus on data elements that foster quality improvement and peer group comparisons;
- Facilitate value-based, cost-effective purchasing of health care services by public and private purchasers and consumers;
- Result in usable and comparable information that allows public and private health care purchasers, consumers, and data analysts to identify and compare health plans, health insurers, health care facilities, and health care providers regarding the provision of safe, cost-effective, high-quality health care services;
- Use and build upon existing data collection standards and methods to establish and maintain the health claims database in a cost-effective and efficient manner;
- Be designed to meet the following performance domains: (1) safety, (2) timeliness, (3) effectiveness, (4) efficiency, (5) equity, (6) patient-centeredness;

- Incorporate and utilize claims, eligibility, and other publicly available data as needed to minimize the cost and administrative burden on data sources;
- Determine whether or not to include data on the uninsured;
- Discuss the harmonization of the Ohio database with the efforts of other states, regions, and the federal government concerning all-payer claims databases;
- Discuss the harmonization of the Ohio database with federal legislation concerning an all-payer claims database;
- Establish a limit on the number of times the administration may require submission of the required data elements;
- Establish a limit on the number of times the database administrator may change the required data elements for submission in a calendar year considering administrative costs, resources, and time required to fulfill the requests;
- Discuss compliance with the Health Insurance Portability and Accountability Act (see "**HIPAA**") and other proprietary information related to collection and release of data;
- Determine how the ongoing oversight of the operations of the Ohio All-Payer Health Claims Database should function.

Rules

(R.C. 3728.04 and 3728.05(I))

The bill requires the Executive Director of the Office of Health Transformation, within six months of receiving the Committee's recommendations, to adopt rules regarding the health claims database that do all of the following:

- Create the Ohio All-Payer Health Claims Database;
- Define the data to be collected from payers and the method of collection, including mandatory and voluntary reporting of health care and health quality data. Medicaid-related data is to be mandatory.
- Establish agreements for voluntary reporting of health care claims data from health care payers that are not subject to mandatory reporting



requirements in order to ensure availability of the most comprehensive and system-wide data on health care costs and quality;

- Establish agreements or make requests with the federal Centers for Medicare and Medicaid Services to obtain Medicare health claims data;
- Define the measures necessary to implement the reporting requirements in a manner that is cost-effective and reasonable for data sources and timely, relevant, and reliable for the public;
- Define the data to be made available to the public with recommendations from the Committee in order to accomplish the purposes of these provisions, including conducting studies and reporting the results of the studies;
- Establish processes to collect, aggregate, distribute, and publicly report performance data on quality, health outcomes, health disparities, cost, utilization, and pricing in a manner accessible for the public;
- Establish procedures to protect patient privacy in compliance with state and federal privacy laws while preserving the ability to analyze data and share with providers and payers to ensure accuracy prior to the public release of information;
- Establish fines for payers that do not comply with rules adopted under the bill;
- Establish procedures for the winding up of the Committee's business and termination of the Committee upon the successful creation of the health claims database.

The bill also requires the Executive Director to adopt any additional rules that are necessary to implement the bill's provisions with respect to the health claims database.

Duties of the Executive Director

(R.C. 3728.05)

The bill tasks the Executive Director with certain duties in the development and implementation of the health claims database. In addition to adopting rules, as described in "**Rules**," the bill requires the Executive Director to do all of the following with respect to the health claims database:



- At the Executive Director's discretion, audit the accuracy of all data submitted;
- As necessary, contract with third parties to collect and process the health care data collected. The contract must prohibit the collection of unencrypted Social Security numbers and the use of the data for any purpose other than those specifically authorized by the contract and must require the third party to transmit the data collected and processed under the contract to the Executive Director or other designated entity.
- At the Executive Director's discretion, share data regionally or help develop a multi-state effort, if recommended by the Committee;
- Issue a report regarding the information kept in the health claims database to the Governor, Speaker of the House of Representatives, and President of the Senate annually.

Ohio All-Payer Health Claims Database Fund

(R.C. 3728.06)

The bill creates the Ohio All-Payer Health Claims Database Fund in the state treasury and requires all fines collected pursuant to the bill's health claims database provisions to be deposited into the Fund to pay for the operating expenses of the health claims database when other funding is not available.

HIPAA

(R.C. 3728.07)

The bill specifies that the collection, storage, and release of health care data and other information relating to the health claims database is subject to the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d.



Nonemergency service conditioned on paying out-of-pocket charge

(R.C. 4743.08)

The bill requires a health care provider to provide certain information to a patient or patient's representative before dispensing a prescription drug⁹⁵ or providing a medical product or service to the patient unless there is an emergency situation. The provider is to inform the patient or representative of (1) the provider's usual and customary charge for the drug or medical product or service, (2) the portion of the provider's usual and customary charge that the patient's insurer will pay or, if the patient is a Medicaid recipient, the portion the Medicaid program will pay, and (3) any out-of-pocket amount the patient will be charged. The information is to be provided in writing. However, the information may be provided verbally if the patient and provider are in different locations.

Except in an emergency, a health care provider is prohibited from dispensing a prescription drug or providing a medical product or service to a patient unless the patient or patient's representative consents to being charged the out-of-pocket amount. Consent must be given in writing, unless the patient and provider are in different locations, in which case consent may be given verbally if the provider records the verbal consent. The prohibition does not apply when a health care provider dispenses a prescription drug or provides a medical product or service to a Medicaid recipient, unless the HHS Secretary enters into an enforceable agreement regarding the bill's Medicaid provisions.

"Health care provider" is defined as an individual who is licensed, certified, or registered by a board, commission, or agency created under or by virtue of state statutes governing the regulation of professions and provides health-related diagnostic, evaluative, or treatment services. The Director of Health is permitted to adopt rules further defining "health care provider." The Director also is permitted to adopt rules specifying which situations are emergency situations.

Health care provider advertising

(R.C. 4743.09)

The bill permits a health care provider to advertise the provider's usual and customary charge for any procedure or service the provider performs or renders. Any provision in a contract that prohibits this practice is declared by the bill to be void.

⁹⁵ The bill refers to a "dangerous drug," which is defined in R.C. 4729.01(F) to mean a drug that may be dispensed only pursuant to a prescription or is intended for administration by injection into the human body other than through a natural orifice of the human body.



Hope for a Smile Program

(R.C. 3701.139 and 5747.01(A); Section 803.200)

Establishment

The bill establishes the Hope for a Smile Program as a collaboration between the Department of Health and all of the following entities:

- The Ohio Dental Association;
- The Ohio Dental Hygienists' Association;
- The Ohio State University College of Dentistry and the dental hygiene program at the College;
- Case Western Reserve University School of Dental Medicine;
- Shawnee State University;
- James A. Rhodes State College;
- Columbus State Community College;
- Cuyahoga Community College, Metropolitan Campus;
- Youngstown State University;
- Lorain County Community College;
- Lakeland Community College;
- University of Cincinnati;
- Sinclair Community College;
- Owens Community College; and
- Stark State College.

Objective and services

The bill specifies that the primary objective of the Program is to improve the oral health of school-age children, which the General Assembly declares to be one of the most unmet health care needs of Ohio. The bill requires that Program services be targeted at school-age children who are indigent and uninsured, although it specifies



that other children may be served. The bill authorizes the Hope for a Smile Advisory Council created by the bill (see "**Advisory Council**," below) to recommend additional populations for the Program to target.

Mobile dental unit

The bill requires the Director of Health, with assistance from the Director of Administrative Services, to use the state's purchasing power to purchase or secure the use of, maintain, and operate a single bus equipped as a mobile dental unit. Funds for these purposes are to come from one or more of the following sources: the Economic Development Programs Fund created under existing law governing casino licensure, the Hope for a Smile Program Fund created by the bill (see "**Hope for a Smile Program Fund**," below), and other public funds.

Dentists, dental hygienists, and faculty and staff of the dental and dental hygiene programs specified above must staff the bus and travel to schools across Ohio. Students enrolled in the specified educational programs also may participate in staffing the buses.

When scheduling visits to schools, priority must be given to schools attended by high numbers of children in the Program's targeted population. Services must be provided in accordance with law governing dentists and dental hygienists that is administered by the Ohio State Dental Board (R.C. Chapter 4715.).

Reimbursement

The bill authorizes the Program to accept grants, donations, and awards. It also authorizes the Program to seek (1) Medicaid payment for services provided to children who are Medicaid recipients and (2) payment from private insurance companies for services provided to children covered by policies issued by those companies. Accordingly, the bill requires the Director of Health to apply on the Program's behalf to the Department of Medicaid for a Medicaid provider agreement. The Director also must seek to enter into arrangements with private insurance companies operating in Ohio for the Program to be reimbursed for services provided to children who have coverage through those companies.

Workforce and economic development initiative

The bill specifies that the service of dental and dental hygiene students to the Program must be recognized by the Governor and General Assembly as a workforce and economic development initiative. Accordingly, the bill authorizes the Program to apply for money allocated by the U.S. Department of Labor or other entities for workforce or economic development initiatives.



Hope for a Smile Program Fund

The bill creates the Hope for a Smile Program Fund and requires any funds received from the sources described above be deposited into the Fund. It also requires that any interest earned on money in the Fund be credited to the Fund. Money in the Fund must be used solely to pay costs incurred under the Program.

State income tax deduction

The bill authorizes dentists and dental hygienists who provide services free of charge under the Program to take a state income tax deduction that is equal to the fair market value of the services provided. The income tax deduction applies to taxable years on and after January 1, 2015.

Advisory Council

The bill requires the Director of Health to appoint the Hope for a Smile Advisory Council to advise the Director on implementation and administration of the Program. The Council's membership must consist of representatives of the Ohio Dental Association, the Ohio Dental Hygienists' Association, the Ohio State University College of Dentistry and its dental hygiene program, the Case Western Reserve University School of Dental Medicine, the Ohio Council of Dental Hygiene Directors, and other members considered appropriate by the Director.

In consultation with the Advisory Council, the bill requires the Director to adopt rules as necessary to implement and administer the Program. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Not later than July 1 each year, the Director, with input from the Advisory Council, must submit to the Governor and to the General Assembly (in accordance with R.C. 101.68) a report on progress the Program has made in achieving its primary objective, saving money for the Medicaid Program and other safety net programs, and promoting workforce and economic development in Ohio.

