DEPARTMENT OF HEALTH

Infant mortality scorecard

- Requires the Department of Health (ODH) to automate its infant mortality scorecard to refresh data in real time on a publicly available data dashboard, as opposed to updating the scorecard quarterly.

Newborn safety incubators

- Authorizes remote monitoring of newborn safety incubators under limited circumstances.
- Permits video surveillance of newborn safety incubator locations but provides that the footage can be reviewed only when a crime is suspected to have been committed within view of the surveillance system.

Newborn screening – Duchenne muscular dystrophy

- Requires the ODH Director to specify in rule Duchenne muscular dystrophy as a disorder for newborn screening.

WIC vendors

- Requires ODH to process and review a WIC vendor contract application within 45 days of receipt under specified circumstances.

Program for Children and Youth with Special Health Care Needs

- Changes the name of ODH's Program for Medically Handicapped Children to the Program for Children and Youth with Special Health Care Needs.
- Expands the Program for Children and Youth with Special Health Care Needs age limit from 23 to 25 by July 1, 2024.

Dentist Loan Repayment Program

- Requires ODH to designate clinics and dental practices that serve a high proportion of individuals with developmental disabilities as dental health resource shortage areas under the existing Dentist Loan Repayment Program.
- Authorizes dentists who work at those clinics or practices to participate in the program.

Stroke registry database

- Requires ODH to establish a stroke registry database and requires certain hospitals to collect and transmit stroke care data for inclusion in the database.
- Authorizes ODH to establish an oversight committee to advise and assist in the stroke registry database's implementation.

Recognition of thrombectomy-capable stroke centers

- Establishes state recognition of thrombectomy-capable stroke centers under the same process used for recognition of hospitals as comprehensive stroke centers, primary stroke centers, or acute stroke ready hospitals.

Parkinson's Disease Registry

- Requires the Director to establish and maintain a Parkinson's Disease Registry.
- Requires health care professionals and facilities to report cases of Parkinson's disease and Parkinsonisms to the Registry.
- Creates the Parkinson's Disease Registry Advisory Committee to assist with the development and maintenance of the Registry.
- Requires the Director to submit an annual report to the General Assembly regarding the prevalence of Parkinson's disease in Ohio by county.

Plasmapheresis supervision

- Revises the law governing the operation of ODH-certified plasmapheresis centers, by expanding the types of health care providers who must attend, supervise, and maintain sterile technique during plasmapheresis.

Regulation of surgical smoke

- Requires ambulatory surgical facilities and hospitals to adopt and implement policies designed to prevent human exposure to surgical smoke during planned surgical procedures.

HIV testing

- Eliminates law that authorizes HIV testing only if necessary to provide diagnosis and treatment of an individual.
- Instead, authorizes HIV testing if the individual, or the individual's parent or guardian, has given general consent for care and has been notified that the test is planned.
- Eliminates law requiring that individuals be notified of the right to an anonymous HIV test, but retains the right to anonymous testing.

Admission and medical supervision of hospital patients

- Cancels the scheduled repeal of statutory law governing the admission and medical supervision of hospital patients, including admissions initiated by advanced practice registered nurses and physician assistants.

Nursing home change of operator

- Adds additional circumstances that constitute a change of operator of a nursing home.

- Eliminates a requirement that an individual or entity submit specified documentation to the ODH Director when a nursing home undergoes a change of operator, and instead requires an entering operator to complete a nursing home change of operator license application.
- Specifies the type of information that must be provided to ODH as part of a nursing home change of operator license application and the procedures ODH must follow when granting or denying a license application.

Nursing home investigations and penalties

- Eliminates the time frame in which ODH must initiate an investigation after receiving a complaint that a nursing home resident's rights have been violated.
- Modifies the penalties that ODH may impose against a nursing home upon a finding that the nursing home has violated a nursing home resident's rights.

Long-term care facility discharges and transfers

- Adds to the Residents' Bill of Rights for residents of nursing homes and assisted living facilities additional protections related to transfers and discharges.
- Requires ODH in hearings regarding a notice of transfer or discharge to determine if the proposed transfer or discharge complies with the act's new rights and existing notification requirements.

Certificates of need – maximum capital expenditures

- Eliminates laws that (1) prohibited the holder of a certificate of need (CON) from obligating more than 110% of an approved project's cost (without obtaining a new CON) and (2) authorized penalties of up to $250,000 for violations.
- Specifies that the CON changes apply to currently valid CONs, pending CON applications, and pending actions for imposing sanctions.

Fees for copies of medical records

- Makes the following changes regarding costs that a health care provider may charge for copies of medical records requested by a patient or patient's personal representative:
  - Generally eliminates specific dollar caps and instead specifies that costs must be reasonable and cost-based, and can include only costs that are authorized under federal laws and regulations; also specifies such costs cannot exceed continuing law limits that are applicable when records are requested by other individuals;
  - Caps the cost at $50 for requests for electronic access and transmission of records;
  - Adds that an individual authorized to access a patient's medical records through a valid power of attorney is subject to the same cost provisions as the patient and the patient's personal representative.

Second Chance Trust Fund Advisory Committee

- Removes the term limits for members of the Second Chance Trust Fund Advisory Committee (currently limited to two consecutive terms, whether full or partial).
- Removes the requirement that the Committee's election of a chairperson from among its members be annual, instead leaving the details of a chairperson's term to Committee rules.

Home health licensure exception

- Exempts from home health licensure individuals providing self-directed services to Medicaid participants and residential facilities licensed by the Department of Mental Health and Addiction Services.

Home health screening pilot program (PARTIALLY VETOED)

- Requires the ODH Director to establish a two-year home health screening pilot program in collaboration with CareStar Community Services.
- Would have required the Medicaid Director to enter into a data sharing agreement with the ODH Director regarding the pilot program (VETOED).

Center for Community Health Worker Excellence

- Creates the Center for Community Health Worker Excellence and establishes its duties.
- Provides for a board of directors to oversee the Center and requires the board to issue an annual report on the Center's activities, including any recommendations pertaining to the practice of community health workers.
- Authorizes Health Impact Ohio and Ohio University's OHIO Alliance for Population Health to assist the Center in implementing its duties.

Smoking and tobacco

Minimum age to sell tobacco products

- Prohibits tobacco businesses from allowing an employee under 18 to sell tobacco products.

Shipment of vapor products and electronic smoking devices

- Prohibits shipment of vapor products and electronic smoking devices to persons other than licensed vapor distributors, vapor retailers, operators of customs bonded warehouses, and state and federal government agencies or employees.
- Prohibits shipping vapor products or electronic smoking devices in packaging other than the original container unless the packaging is marked with the words "vapor products" or "electronic smoking devices."

Delivery services

- Prohibits a delivery service from accepting, transporting, delivering, or allowing pick-up of tobacco products other than cigarettes, alternative nicotine products, or papers used to roll cigarettes to or from a person under 21, as evidenced by proof of age.

Electronic liquids (VETOED)

- Would have specified that only electronic smoking liquids containing nicotine are subject to the law governing the giveaway, sale, and other distribution of tobacco products (VETOED).

Proof of age

- Requires tobacco product vendors to verify proof of age prior to selling or otherwise distributing tobacco products.

Free samples (PARTIALLY VETOED)

- Explicitly prohibits giving away or otherwise distributing free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for such products.
- Would have permitted giving away or distributing free samples to persons 21 and over after verifying proof of age, if state and local taxes had already been paid, and to the extent permissible under cigarette minimum pricing laws (VETOED).

Moms Quit for Two

- Continues the Moms Quit for Two grant program for the delivery of tobacco cessation interventions to women who are pregnant or living with children and reside in communities with the highest incidence of infant mortality.

Retail tobacco stores

- Modifies an existing exemption from the Smoke Free Workplace Law for retail tobacco stores.

Environmental health specialists

- Recodifies R.C. Chapter 4736, the law governing environmental health specialists (EHSs) and environmental health specialists in training (EHSs in training), in new R.C. Chapter 3776.
- Adds that EHSs and EHSs in training may administer and enforce the law governing tattoos and body piercing.
- Clarifies that EHSs and EHSs in training may administer and enforce the law governing hazardous waste.
- Clarifies that all fees collected under the EHS law are deposited into the ODH General Operations Fund, and eliminates a conflict in prior law that required the fees to be deposited in both that fund and the Occupational Licensing and Regulatory Fund.

- Broadens the ODH Director's rulemaking authority regarding EHSs and EHSs in training, including allowing any rulemaking that is necessary to administer and enforce the EHS law.
- Requires EHSs in training to comply with the same continuing education requirements as are required for EHSs, which includes a requirement to biennially complete a 24-hour continuing education program in specified subjects.
- Requires the ODH Director to provide, at least once annually, to each EHS in training a list of approved courses that satisfy the continuing education program and supply a list of continuing education courses to an EHS in training upon request, in the same manner as the Director does for EHSs under continuing law.
- Clarifies that the ODH Director may renew an EHS or EHS in training registration 60 days prior to expiration, provided the applicant pays the renewal fee and proof of compliance with continuing education requirements.
- Specifies that an EHS in training has up to four years (with a two-year possible extension) to apply as an EHS instead of three years (with a two-year possible extension) as under prior law.
- Prohibits a person who is not a registered EHS in training from using the title "registered environmental health specialist in training" or the abbreviation "E.H.S.I.T.," or representing themselves as a registered EHS in training.
- Repeals the requirements that the ODH Director assign a serial number to each certificate of registration and include it in EHS and EHS in training registration records.
- Removes the requirement that the ODH Director obtain the advice and consent of the Senate when appointing members of the Environmental Health Specialist Advisory Board.

Infant mortality scorecard

(R.C. 3701.953)

The act requires the Ohio Department of Health (ODH) to build and automate a publicly available data dashboard to refresh data from the Department's infant mortality scorecard in real time. The infant mortality scorecard tracks statewide data related to infant mortality. Previously, ODH was required to publish the scorecard on its website and update the data quarterly.

Newborn safety incubators

(R.C. 2101.16, 2151.3515, 2515.3516, 2151.3517, 2151.3518, 2151.3527, 2151.3528, 2151.3532, and 2151.3533)

Regarding Ohio's Safe Haven Law, the act establishes an option for remote monitoring of newborn safety incubators. Under continuing law, ODH has rulemaking authority to set monitoring standards for newborn safety incubators. Continuing ODH rules require in person

monitoring by an individual who is present and on duty in the facility where the incubator is located at all times, 24 hours a day, seven days a week.[74] The act permits peace officers, peace officer support employees, emergency medical service workers, and certain hospital employees to either (1) monitor an incubator directly, or (2) be designated as an alternate, to be dispatched when an infant is placed in the incubator and the incubator is not directly monitored. Additionally, the act provides that persons authorized to take possession of a newborn from a newborn safety incubator are not liable for failure to respond to the incubator's alarm within a reasonable time, unless the failure was willful or wanton misconduct.

The act also provides that a facility that has installed a newborn safety incubator may use video surveillance to monitor the area where the incubator is located, but may review the footage only when a crime is suspected to have been committed within view of the video surveillance system.

Ohio's Safe Haven Law authorizes a parent to voluntarily and anonymously surrender the parent's newborn child – who is not more than 30 days old – by delivering the child to any of the following:

- A law enforcement agency or peace officer or peace officer support employee employed by the agency;
- A hospital or individual practicing at or employed by the hospital;
- An emergency medical service organization or emergency medical service worker employed by or providing services to the organization;
- A newborn safety incubator provided by a law enforcement agency, hospital, or emergency medical service organization.

The act provides that a parent also may surrender the newborn child to any authorized person by calling 9-1-1 and waiting with the child until the authorized person arrives and takes possession of the child.

Newborn screening – Duchenne muscular dystrophy

(R.C. 3701.501)

The act requires the ODH Director to specify in rule Duchenne muscular dystrophy as a disorder for newborn screening beginning 240 days after the act's effective date. Generally, each newborn is required to be screened for the disorders specified in rules adopted by the ODH Director. Statutory law requires the rules to specify Krabbe disease, spinal muscular atrophy, and X-linked adrenoleukodystrophy for screening.

[74] O.A.C. 3701-86-03(B) and (F).

WIC vendors

(Section 291.40)

WIC is the Special Supplemental Nutrition Program for Women, Infants, and Children. The act maintains a requirement in uncodified law that ODH process and review a WIC vendor contract application pursuant to existing ODH regulations within 45 days after receipt if the applicant is a WIC-contracted vendor and (1) submits a complete application and (2) passes the required unannounced preauthorization visit and completes the required in-person training within that 45-day period. If the applicant fails to meet those requirements, ODH must deny the application. After denial, the applicant may reapply during the contracting cycle of the applicant's WIC region.

Program for Children and Youth with Special Health Care Needs

(R.C. 3701.021 and 3701.023 with conforming changes in numerous other R.C. sections; Section 812.20)

The act renames the Program for Medically Handicapped Children as the Program for Children and Youth with Special Health Care Needs.

The program is administered by ODH and serves families of children and young adults with special health care needs, including AIDS, hearing loss, cancer, juvenile arthritis, cerebral palsy, metabolic disorders, cleft lip/palate, severe vision disorders, cystic fibrosis, sickle cell disease, diabetes, spina bifida, scoliosis, congenital heart disease, hemophilia, and chronic lung disease.

The program has three core components:

- Diagnostic – An individual under age 21 who meets medical criteria, regardless of income, may receive services from program-approved providers for up to six months to diagnose or rule out a special health care need or establish a plan of care;
- Treatment – An individual under age 23 who meets both medical and financial criteria may receive treatment from program-approved providers for an eligible condition;
- Service coordination – The family of an individual under age 23 who meets medical criteria, regardless of income, may receive assistance locating and coordinating services for the individual with the medical diagnosis.[75]

The act requires the Director to increase the maximum age of participants by establishing eligibility requirements that progressively increase the maximum age of an individual who can be

[75] Service coordination information published on the ODH website indicates that eligible applicants must be under the age of 21 (Service Coordination Program, which may be accessed by conducting a keyword "service coordination" search on ODH's website: odh.ohio.gov). However, R.C. 3701.023(D) requires ODH to authorize necessary service coordination for each eligible child, and R.C. 3701.021(D) prohibits the Director from specifying an age restriction that excludes from eligibility an individual who is less than 23 years of age.

served by the program. In 2023 and 2024 on July 1, the Director's rules must increase the age limit by one year. The final increase, on July 1, 2024, allows individuals under 25 to participate. This annual increase does not apply to the diagnostic component of the program. The act specifies that the age limit increase is exempt from the referendum and takes immediate effect. The act appropriates an additional $500,000 to the program in each fiscal year.

Dentist Loan Repayment Program

(R.C. 3702.87)

The act authorizes dentists who work at dental clinics and practices that serve a high proportion of individuals with developmental disabilities to apply to participate in the preexisting Dentist Loan Repayment Program. Under the act, ODH must designate such clinics and practices as "dental health resource shortage areas."

Under continuing law, the program provides loan repayment on behalf of individuals who agree to provide dental services in dental health resource shortage areas. Expenses that may be repaid under the program include tuition, books and other educational expenses, and room and board.[76] The act does not modify any other provisions of the program, including related to eligibility requirements or the application process.

Stroke registry database

(R.C. 3727.131)

The act requires ODH to establish and maintain a process for collecting, transmitting, compiling, and overseeing data related to stroke care. As part of the data collection process, ODH must establish or utilize a stroke registry database to store the data, including data that aligns with nationally recognized treatment guidelines and performance measures. The act also requires the stroke care data to be collected, transmitted, compiled, and overseen in a manner prescribed by the ODH Director.

Existing database

If, before October 3, 2023, ODH established or utilized a stroke registry database that meets the act's requirements, both of the following apply:

- The act must not be construed to require ODH to establish or utilize another database.
- ODH must maintain both the process for collecting, transmitting, compiling, and overseeing data required by the act as well as the stroke registry database itself, even if federal moneys are no longer available to support the process or database.

ODH rulemaking

The act requires the ODH Director to adopt rules as necessary to implement its provisions, including rules specifying both the data to be collected and the manner in which it is to be

[76] R.C. 3702.85, not in the act.

collected and later transmitted for inclusion in the stroke registry database. The rules must be adopted by April 3, 2024, in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Data to be collected

The data to be collected must align with stroke consensus metrics developed and approved by (1) the federal Centers for Disease Control (CDC) and (2) accreditation organizations that are approved by the federal Centers for Medicare and Medicaid Services (CMS) and that certify stroke centers. In addition, the data must be consistent with nationally recognized treatment guidelines for patients with confirmed stroke. With respect to mechanical endovascular thrombectomy, the data must relate to the treatment's processes, complications, and outcomes, including data required by national certifying organizations.

Data samples

When adopting rules under the act, the Director may specify that, of the data collected, only samples are to be transmitted for inclusion in the stroke registry database.

Stroke care performance measures

The act requires the Director, when adopting the rules, to consider nationally recognized stroke care performance measures.

Electronic platform

The Director must designate in rule an electronic platform for collecting and transmitting data. In doing so, the Director must consider nationally recognized stroke data platforms.

Coordination

The Director, when adopting the rules, must coordinate with (1) hospitals recognized by ODH as stroke centers and stroke ready hospitals and (2) national voluntary health organizations involved in stroke quality improvement. The act specifies that this coordination is to be done in an effort to avoid duplication and redundancy.

Patient identity

The data collected and transmitted under the act must not identify or tend to identify a particular patient.

Duties of hospitals

Under the act, each hospital recognized by ODH as a comprehensive stroke center, thrombectomy-capable stroke center, or primary stroke center must collect the data specified by the Director in rule and then transmit it for inclusion in the stroke registry database. In the case of a hospital that is recognized by ODH as an acute stroke ready hospital, the act instead encourages the collection and transmission of such data.

The act also specifies that data relating to mechanical endovascular thrombectomy, in particular the treatment's processes, complications, and outcomes, is to be collected and transmitted only by a hospital recognized as a thrombectomy-capable stroke center.

The act authorizes a hospital to contract with a third-party organization to collect and transmit the data. If a contract is entered into, the organization must then collect and transmit the data.

Oversight committee

The act authorizes ODH to establish an oversight committee to advise and monitor the act's implementation and assist ODH in developing short- and long-term goals for the stroke registry database.

If established, the committee's membership must consist of individuals with expertise or experience in data collection, data management, or stroke care, including the following:

- Individuals representing organizations advocating on behalf of those with stroke or cardiovascular conditions;
- Individuals representing hospitals recognized by ODH as comprehensive stroke centers, thrombectomy-capable stroke centers, primary stroke centers, or acute stroke ready hospitals.

Recognition of thrombectomy-capable stroke centers

(R.C. 3727.11, 3727.12, 3727.13, and 3727.14)

The act permits a hospital to obtain recognition by ODH as a thrombectomy-capable stroke center. The process for doing so is the same as the process that ODH uses under continuing law for recognition of hospitals as comprehensive stroke centers, primary stroke centers, or acute stroke ready hospitals.

To be eligible for ODH's recognition in this new category, a hospital must be certified as a thrombectomy-capable stroke center by either (1) an accrediting organization approved by the federal Centers for Medicare and Medicaid Services (CMS) or (2) an organization acceptable to ODH by using nationally recognized certification guidelines. As with the other recognized categories of stroke care hospitals, the act prohibits a hospital from representing itself as a thrombectomy-capable stroke center unless it is recognized as such by ODH. The act does not specify a penalty for violating the prohibition.

Parkinson's Disease Registry

(R.C. 3701.25 to 3701.255)

The act requires the ODH Director to establish and maintain a Parkinson's Disease Registry before October 3, 2025. The Registry is for the collection and monitoring of Ohio-specific data related to Parkinson's disease and Parkinsonisms. Parkinsonisms are conditions related to Parkinson's disease that cause a combination of the movement abnormalities seen in Parkinson's disease that often overlap with and can evolve from what appears to be Parkinson's disease. Parkinsonisms can include multiple system atrophy, dementia with Lewy bodies, corticobasal degeneration, and progressive supranuclear palsy.

The Director is responsible for describing the Registry and providing any relevant information about the Registry on ODH's website.

Health care provider reporting

The act requires each individual case of Parkinson's disease or a Parkinsonism to be reported to the Registry by the certified nurse practitioner, clinical nurse specialist, physician, or physician assistant who diagnosed or treated the individual's Parkinson's disease or Parkinsonism, or by the group practice, hospital, or other health care facility that employs that health care professional. Reporting must begin on a date and at intervals determined by the Director. Only cases diagnosed after a date determined by the Director must be reported. Each medical professional or health care facility that reports to the Registry is not liable in any cause of action that originates from the submission of the report.

When a patient is first diagnosed or treated for Parkinson's disease, the medical professional must inform the patient of the Registry. The act does not require a patient to submit to any medical examination or supervision by ODH or a researcher.

The Director or a representative of the Director may inspect a representative sample of the medical records of patients with Parkinson's disease at a health care facility.

Contracts and agreements related to the registry

The act authorizes the Director to enter into contracts, grants, and other agreements to maintain the Registry, including data sharing contracts with data reporting entities and their associated electronic medical records system vendors. It also authorizes the Director to enter into agreements to furnish data collected in the Registry with other states' Parkinson's disease registries, federal Parkinson's disease control agencies, local health officers, or local health researchers. Before confidential information is disclosed, the requesting entity must agree in writing to maintain the confidentiality of the information. If the disclosure is to a researcher, the researcher must also obtain approval from ODH's institutional review board and provide documentation to the Director that demonstrates they have established the procedures and ability to maintain confidentiality.

Confidentiality of information

Generally, all information collected pursuant to the act is confidential. The Director must maintain an accurate record of all researchers who are given access to confidential information in the Registry. The record must include (1) the name, title, address, and organizational affiliation of any person given access, (2) the access dates, and (3) the specific purpose for which information is being used.

Confidential information is not available for subpoena and may not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other tribunal or court for any reason.

The act does not prevent (1) the Director from publishing reports and statistical compilations that do not identify or tend to identify individual cases or individual sources of information or (2) a facility or individual that provides diagnostic or treatment services to individuals with Parkinson's disease from maintaining a separate Parkinson's disease registry.

Advisory committee

The act creates a Parkinson's Disease Registry Advisory Committee in ODH. The Director or the Director's designee must serve on the Committee, and the Director must appoint the following additional members: (1) a neurologist, (2) a movement disorder specialist, (3) a primary care provider, (4) a physician informaticist, (5) a public health professional, (6) a population health researcher with disease registry experience, (7) a Parkinson's disease researcher, (8) a patient living with Parkinson's disease, and (9) any other individuals deemed necessary by the Director. The Committee is responsible for assisting the Director in developing and implementing the Registry and advising the Director on maintaining and improving the registry.

Meetings and compensation

The first meeting must be held by January 2, 2024. Thereafter, meetings must be at least twice a year at the call of the Director or the Director's designee, who is the chairperson. Meetings may take place in person or virtually at the discretion of the Director. Members serve without compensation except to the extent that serving on the committee is considered part of the member's employment responsibilities. ODH must provide meeting space and other administrative support to the Committee.

Report

The act requires the Director to submit a Parkinson's disease report to the General Assembly by October 3, 2025, and annually thereafter. The report must include (1) the incidence of Parkinson's disease in Ohio by county, (2) the number of new cases reported to the Parkinson's disease registry in the previous year, and (3) demographic information, including age, gender, and race.

Rules

The Director must adopt rules that specify the data to be collected and the format in which it is to be submitted to the Registry.

Plasmapheresis supervision

(R.C. 3725.05)

The act revises the law governing the operation of ODH-certified plasmapheresis centers, by expanding the types of health care providers who must attend, supervise, and maintain sterile technique during plasmapheresis. Prior law had limited such providers to medical technologists approved by the ODH Director, physicians, and registered nurses. Under the act, the providers also include other qualified medical staff persons approved by the Director, licensed practical nurses, emergency medical technicians-intermediate, and emergency medical technicians-paramedic. In the case of an emergency medical technician (EMT), the act specifies that the individual is not attending or supervising the procedure or maintaining sterile technique in the individual's capacity as an EMT.

Regulation of surgical smoke

(R.C. 3702.3012 and 3727.25)

The act requires ambulatory surgical facilities and hospitals offering surgical services to adopt and implement policies designed to prevent human exposure to surgical smoke during planned surgical procedures likely to generate such smoke. "Surgical smoke" is defined as the airborne byproduct of an energy-generating device used in a surgical procedure, including smoke plume, bioaerosols, gases, laser-generated contaminants, and dust.

The policy, which must be in place by October 3, 2024, must include the use of a surgical smoke evacuation system. The system required by the act is described as equipment designed to capture, filter, and eliminate surgical smoke at the point of origin, before the smoke makes contact with the eyes or respiratory tract of an individual.

The ODH Director may adopt rules to implement the act's requirements. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

HIV testing

(R.C. 3701.242)

The act authorizes an HIV test to be performed on an individual if the individual has given general consent for health care treatment and a health care provider, or an authorized representative of a health care provider, notifies the individual that the HIV test is planned. The notification may be verbal or written and in-person or electronic. The notification does not have to include information on the right to anonymous testing, but the act does not limit the right to anonymous testing. Previously, an HIV test could be authorized only if a health care provider determined the test was necessary for providing diagnosis and treatment, and the notification had to include information on the right to an anonymous test.

Admission and medical supervision of hospital patients

(Section 130.56, primary; sections 130.54 and 130.55, amending Sections 130.11 and 130.12 of H.B. 110 of the 134th G.A.; conforming changes in Sections 130.50 to 130.53)

The act cancels the repeal – scheduled for September 30, 2024 – of statutory law governing the admission and medical supervision of hospital patients, including admissions initiated by advanced practice registered nurses and physician assistants, and makes conforming changes in related statutes.[77] Under H.B. 110, the main operating budget of the 134th General Assembly, this law was scheduled to be repealed as part of H.B. 110's provisions requiring each hospital to hold a license issued by the ODH Director by September 30, 2024.

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[77] R.C. 3727.06, not in the act. See also R.C. 3701.351, and R.C. 3727.70 and 4723.431, not in the act.

Nursing home change of operator

(R.C. 3721.01, 3721.026, 5165.01, and 5168.40)

Actions that constitute a change of operator

The act adds several circumstances that, upon their occurrence, constitute a nursing home change of operator. It eliminates the specification that a transfer of all of an operator's ownership interest in the operation of a nursing home constitutes a change of operator of the nursing home, and instead specifies that a change in control of a nursing home operator constitutes a change in operator. A change in control of a nursing home is defined as either (1) any pledge, assignment, or hypothecation of or lien or other encumbrance on any of the legal or beneficial equity interests in an entity operating a nursing home, or (2) a change of 50% or more in the legal or beneficial ownership or control of the outstanding voting equity interests of the entity operating the nursing home necessary at all times to elect a majority of the board of directors or similar governing body and to direct the management policies and decisions.

Under continuing law, the dissolution of a partnership constitutes a change of operator. The act specifies that a merger of a partnership into another entity, or a consolidation of a partnership and at least one other entity also constitute a change of operator. Similarly, the act adds that the dissolution of a limited liability company, a merger of a limited liability company with another entity, or consolidation of a limited liability company with another entity all constitute a change of operator. Finally, the act provides that both of the following constitute a change of operator: (1) a contract for an individual or entity to assume control of the operations and cash flow of a nursing home as an operator's or owner's agent and (2) a change in control of the owner of the real property associated with a nursing home, if within one year after the change of control, there is a material increase in the lease payments or other financial obligations of the operator to the owner.

Conversely, the act specifies that an employer stock ownership plan established under federal law and an initial public offering for which the Securities and Exchange Commission has declared a registration statement to be effective do not constitute a change of operator. Similarly, the act specifies that continuing law specifying that a change of one or more members of a corporation's governing body or transfer of ownership of one or more shares of a corporation's stock does not constitute a change of operator applies only if the corporation has publicly traded securities.

Nursing home change of operator license application

The act modifies a requirement that an individual or entity who is assigned or transferred the operation of a nursing home submit to the ODH Director documentation of certain information before a change of operator may occur. The act instead requires that the individual or entity taking over the operation of a nursing home following a change of operator first complete a nursing home change of operator license application and pay a licensing fee. ODH must prescribe the form for the application. As part of the application, an applicant must provide the following:

- Disclosure of all direct and indirect owners that own at least 5% of:

  - The applicant, if the applicant is an entity;
  - The owner of the building or buildings in which the nursing home is housed, if the owner of the building or buildings is a different individual or entity from the applicant;
  - The owner of the legal rights associated with the ownership and operation of the nursing home beds, if the owner is a different person or entity from the applicant;
  - The management firm or business employed to manage the nursing home, if the management firm or business is a different individual or entity from the applicant;
  - Each related party that provides or will provide services to the nursing home, whether through contracts with an individual or entity described above.
- Disclosure of the direct or indirect ownership interest that an individual identified above has in a current or previously licensed nursing home in Ohio or another state, and whether any identified nursing home had any of the following occur during the five years immediately preceding the date of application:
  - Voluntary or involuntary closure of the nursing home;
  - Voluntary or involuntary bankruptcy proceedings;
  - Voluntary or involuntary receivership proceedings;
  - License suspension, denial, or revocation;
  - Injunction proceedings initiated by a regulatory agency;
  - The nursing home was listed in Table A, Table B, or Table D on the SFF list under the Special Focus Facilities program administered by the U.S. Secretary of Health and Human Services;
  - A civil or criminal action was filed against the nursing home by a state or federal entity.
- Any additional information the ODH Director considers necessary to determine the ownership, operation, management, and control of the nursing home.

Additional requirements

Bond or other financial security

Under prior law, an individual assuming the operation of a nursing home was required to provide to the ODH Director evidence of a bond or other financial security. Under the act, this requirement applies to all applicants for a change of operator license except those that demonstrate that they own at least 50% of the nursing home and its assets or at least 50% of the entity that owns the nursing home and its assets. For individuals and entities to which the bond or other financial security requirements apply, the act specifies that the bond or other financial security must be for an amount not less than the product of the number of licensed beds in the nursing home, multiplied by $10,000.

The required bond or other financial security must be renewed or maintained for a period of five years following the effective date of a change of operator. If a bond or other financial security is not maintained, the ODH Director is required to revoke a nursing home operator's

license. The Director may utilize a bond or other financial security if any of the following occur during the five-year period following the change of operator for which the bond or other financial security is required:

- The nursing home is voluntarily or involuntarily closed;
- The nursing home or its owner or operator is the subject of voluntary or involuntary bankruptcy proceedings;
- The nursing home or its owner or operator is the subject of voluntary or involuntary receivership proceedings;
- The license to operate the nursing home is suspended, denied, or revoked;
- The nursing home undergoes a change of operator and the new applicant does not submit a bond or other financial security;
- The nursing home appears in Table A, Table B, or Table D on the SFF list under the Special Focus Facilities program administered by the U.S. Secretary of Health and Human Services.

If none of the events described above occur in the five years immediately following the effective date of the change of operator, the ODH Director is required to release the bond or other financial security back to the applicant.

Experience

The act further requires an applicant to provide information detailing that a person who is a direct or indirect owner of 50% or more of the applicant is an individual with at least five years of experience as (1) an administrator of a nursing home located in Ohio or another state or (2) a direct or indirect owner of at least 50% in an operator or manager of a nursing home located in Ohio or another state.

Policies and insurance

Under continuing law unchanged by the act, an individual or entity assuming control of a nursing home must attest to the ODH Director that the applicant has plans for quality assurance and risk management and general and professional liability insurance of $1 million per occurrence and $3 million in aggregate. Additionally, the act requires an applicant to attest that the nursing home has sufficient numbers of qualified staff who will be employed to properly care for the type and number of nursing home residents.

License denial and penalty

The act requires the ODH Director to conduct a survey of a nursing home not later than 60 days after the effective date of the change of operator. Additionally, the act requires the Director to deny a change of operator license application if any of the requirements described above are not satisfied or if the applicant has or had 50% or more direct or indirect ownership in the operator or manager of a current or previously licensed nursing home in Ohio or another state for which any of the following occurred within the five years immediately preceding the date of application:

- Involuntary closure of the nursing home by a regulatory agency or voluntary closure in response licensure or certification action;
- Voluntary or involuntary bankruptcy proceedings that are not dismissed within 60 days;
- Voluntary or involuntary receivership proceedings that are not dismissed within 60 days;
- License suspension, denial, or revocation for failure to comply with operating standards.

If an application is denied, the act authorizes an applicant to appeal the denial in accordance with the Administrative Procedure Act.

Under the act, an applicant is required to notify the ODH Director within ten days of any change in the information or documentation that is required to be submitted before a change of operator may be effective. This notice is required whether the change in information occurs before or after the effective date of a change of operator. If an applicant fails to notify the Director as required, the act requires the Director to impose a civil penalty of $2,000 per day for each day of noncompliance.

Similarly, if the Director becomes aware that a change of operator has occurred but the entering operator failed to submit a change of operator license application or did submit an application but provided fraudulent information, the act requires the Director to impose a civil penalty of $2,000 per day for each day of noncompliance after the date on which the Director became aware of the information. If the entering operator fails to submit an application or a new application within 60 days of the ODH Director becoming aware of a change of operator taking place, the Director is required to begin the process of revoking the nursing home's license.

Rulemaking

The act authorizes the ODH Director to adopt any rules necessary to implement these requirements. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Legislative intent

The act specifies that it is the intent of the General Assembly in establishing a nursing home change of operator license application process to require full and complete disclosure and transparency with respect to the ownership, operation, and management of each licensed nursing home located in Ohio.

Nursing home investigations and penalties

(R.C. 3721.17 and 3721.99; conforming changes in R.C. 173.24, 3721.01, and 3721.08)

Regarding investigations undertaken by ODH following a complaint that a nursing home resident's rights have been violated, the act eliminates a requirement that such an investigation be initiated within 30 days after receiving a complaint, or be referred to the Attorney General within seven days. The act also eliminates a requirement that ODH hold an adjudicative hearing within 30 days after an investigation that finds probable cause to believe a nursing home resident's rights were violated.

The act modifies the disciplinary procedures that may be initiated against a nursing home that is determined to have violated a resident's rights. Under prior law, ODH was required to assess a fine of between $100 and $500 for a first offense and between $200 and $1,000 for subsequent offenses. Under the act, the ODH Director may do any of the following: (1) request the nursing home licensee submit a corrective action plan, (2) impose a civil monetary penalty, or (3) revoke a nursing home license.

If the Director requests a nursing home licensee to submit a corrective action plan, the plan must state the following:

- The actions being taken or actions to be taken to correct the violation;
- The time frame for completion of the correction plan;
- The means by which continuing compliance with the plan will be monitored.

If the Director elects to impose a civil monetary penalty, the act establishes several tiers of civil penalties that may be assessed, as follows:

- For violations that result in no actual harm with the potential for more than minimal harm that is not a real and present danger[78] to one or more residents, that were cited more than once during the 15-month period following an inspection, a $2,000 to 3,000 fine;
- For violations that do result in actual harm that is not a real and present danger to one or more residents, a $3,100 to 6,000 fine;
- For violations that result in a real and present danger to one of more residents, a $6,000 to 10,000 fine;
- For a violation of a nursing home resident's rights, other than the right to be free from retaliation from a nursing home, a $1000 to 5,000 fine for a first occurrence and $2,000 to 10,000 for subsequent offenses;
- For a violation of a nursing home resident's right to be free from retaliation from a nursing home, a fine up to $5,000 for each occurrence;
- For a violation of the continuing law requirement unchanged by the act prohibiting the operation of a nursing home without a license, a fine of $5,000 for a first offense and $10,000 for subsequent offenses.

When determining the amount of a civil monetary penalty within the ranges described above, the act requires the ODH Director to consider all of the following:

- The number of residents directly affected by the violation;
- The number of staff involved in the violation;

[78] Continuing law unchanged by the act defines a "real and present danger" as "immediate danger of serious physical or life-threatening harm to one or more occupants of a [nursing] home"; R.C. 3721.01(A)(14).

- Any actions taken by the nursing home to correct or mitigate the violation, including the timeliness and sufficiency of the nursing home's response to the violation and the outcomes of that response;
- Whether any concurrent federal penalties are being imposed for the same violations by the U.S. Centers for Medicare and Medicaid Services;
- The nursing home's history of compliance.

The act permits the Director to enter into a settlement agreement with a nursing home after determining a civil monetary penalty is warranted. The act specifies that settlements may include (1) a lesser civil monetary penalty than initially proposed, (2) allowing the nursing home to invest an amount less than or equal to the amount of the civil monetary penalty on remedial measures and quality improvement initiatives, or (3) other penalties warranted by the deficient practices and negotiations between the Director and the nursing home.

Long-term care facility discharges and transfers

(R.C. 3721.13, 3721.16, 3721.161, and 3721.162)

The act adds several rights for long-term care facility residents. Under Ohio law, residents of nursing homes, assisted living facilities (referred to in Ohio law as residential care facilities), and other homes for the aging have various enumerated rights. A resident who believes that any of those rights have been violated may file a grievance with the grievance committee that each facility is required to establish.

Some continuing rights include a guarantee of a safe and clean living environment, participation in decisions that affect the resident's life, the right to privacy in certain situations, and the right not to be transferred or discharged from the home unless the transfer is necessary for one of several reasons, including the resident's needs cannot be met in the home, the safety of individuals in the home is endangered, or the resident has failed to pay after reasonable and appropriate notice. Regarding transfer and discharge, the act adds the following rights:

- The right not to be transferred or discharged to a location that cannot meet the health and safety needs of the resident.
- The right not to be transferred or discharged without adequate preparation in order to conduct a safe and orderly transfer or discharge, including proper arrangements for medication, equipment, health care services, and other necessary services.
- All other rights regarding transfers or discharges provided under federal law.

The act also requires ODH, in hearings regarding a notice of transfer or discharge, to determine if the proposed transfer or discharge complies with these transfer and discharge rights, as well as notification requirements under continuing law.

Certificates of need – maximum capital expenditures

(R.C. 3702.511 and 3702.52; repealed R.C. 3702.541; Section 803.110; related and conforming changes in other sections)

Under Ohio's Certificate of Need (CON) Program, certain activities involving long-term care facilities can be conducted only if a CON has been issued by the ODH Director. The act eliminates the following as a reviewable activity: expenditures of more than 110% of the maximum capital expenditure specified in a CON concerning long-term care beds. Related to this change, the act eliminates the need to obtain a new CON based on a project's cost after a CON has been approved.

The act also does the following:

- Prohibits CON rules from specifying a maximum capital expenditure that a certificate holder may obligate under a CON;
- Eliminates a requirement that rules be adopted to establish procedures for Director-review of CONs where the certificate holder exceeds maximum capital expenditures;
- Eliminates law authorizing civil penalties up to $250,000 for violations of CON maximum capital expenditure limits;
- Specifies that the CON changes apply to currently valid CONs, pending CON applications, and pending actions for imposing sanctions;
- Repeals uncodified law enacted in H.B. 371 of the 134th General Assembly that, for 24 months, prohibited imposition of civil monetary penalties against CON holders who obligate up to 150% of an approved project's cost.

Fees for copies of medical records

(R.C. 3701.741)

The act makes several changes regarding costs that a health care provider or medical records company may charge for copies of medical records. In setting fee caps, the act continues a preexisting distinction between record requests made by the patient or the patient's personal representative and requests made by anyone else. Regarding requests by a patient or a patient's personal representative, the act makes the following changes:

- Adds that a request from an individual who is authorized to access a patient's medical record through a valid power of attorney is in the same category as a request from the patient or the patient's personal representative.
- Related to costs that may be charged for those requests, generally eliminates specific dollar caps based on the number of pages, and instead specifies that costs for the records must be reasonable and cost-based, and can include only costs that are authorized to be charged to the patient under federal law and regulations.[79] The act does, however,

[79] See 45 C.F.R. 164.524(c)(4).

impose a $50 cap in the case of requests for access to digital records or electronically transmitted records.

- Clarifies that any per page charges to a patient, or the patient's personal representative or holder of a power of attorney, cannot exceed the sum of the per page charges permitted under continuing law when a request is made by anyone else. Those per page caps relate to x-ray, MRI, and CAT scan images, and to data recorded on paper or electronically. Related to the latter, the $50 cap discussed above also applies.

Second Chance Trust Fund Advisory Committee

(R.C. 2108.35)

The act makes changes to the Second Chance Trust Fund Advisory Committee. First, it removes the term limits for members, who currently are limited to two consecutive terms, whether full or partial. Second, it removes the requirement that the Committee annually elect a chairperson from among its members, instead leaving the details of a chairperson's election and term to the rules of the Committee. Third, as acknowledged in the **BOARDS AND COMMISSIONS** chapter, the act removes two members of the General Assembly from the Committee.

Under continuing law, the Committee makes recommendations to the ODH Director regarding how to spend proceeds of the Second Chance Trust Fund. The fund consists of voluntary contributions and its own investment earnings, used to promote organ donation in Ohio through public education and awareness campaigns, outreach to legal and medical organizations, and recognition of donor families.

Home health licensure exception

(R.C. 3740.01)

The act exempts from licensure under the home health licensure law:

1. Individuals who provide self-directed services[80] to Medicaid participants, including individuals who are certified by the Department of Aging or registered as self-directed individual providers through an area agency on aging; and

2. Residential facilities licensed by OhioMHAS.

Other exemptions not modified by the act include exemptions for residential facilities operated by the Department of Developmental Disabilities and nursing homes and assisted living facilities licensed by ODH.

[80] Self-directed Medicaid services means that participants have decision making authority over certain services and take direct responsibility to manage their services with the assistance of a system of available supports. Self-direction is a service delivery model that is an alternative to traditionally delivered and managed services. Self-Directed Services, available by searching "self-direction" at medicaid.gov.

Home health screening pilot program (PARTIALLY VETOED)

(Sections 291.10, 291.20, and 291.50)

The act requires the ODH Director to collaborate with CareStar Community Services to conduct a home health screening pilot program during FY 2024 and FY 2025. CareStar is a Cincinnati-based company that provides a variety of health services including case management, population health management, personal in-home services, technology development, and online learning and training. Community Services is CareStar's nonprofit organization that partners with government and private entities.[81] The purpose of the pilot program is to improve early detection of chronic diseases for populations underserved by health care providers and to connect patients with health care services.

The ODH Director must enter into a cooperative agreement with CareStar Community Services before November 2, 2023, granting CareStar Community Services the authority to make decisions regarding program responsibilities. The first pilot program responsibility is to identify a target population underserved by health care providers that is large enough to evaluate best practices for further implementation. The pilot program must then deliver health screening tests directly to the homes of members of the target population, including tests for colorectal cancer, diabetes, heart disease, cervical cancer, and other tests deemed appropriate by CareStar Community Services. To enhance patient engagement and the return of completed tests, the pilot program is responsible for initiating public awareness and education efforts directed at the target population. After the screening tests are complete, the pilot program must deliver the results to those who submitted tests and provide referrals to health care providers for consultations when appropriate and available.

CareStar Community Services, in collaboration with the ODH Director, is required to submit two reports to the Governor, the Speaker of the House, the Senate President, and the chairs of the committees of each house with responsibility for health care policy. The reports are due within 60 days of the end of each fiscal year that the pilot is established. Each report must detail the status of the pilot program, including an estimate of the financial savings anticipated as a result of the early screenings and recommendations for expanding the program statewide.

The Governor vetoed a provision that would have required the Medicaid Director to enter into a data sharing agreement with the ODH Director to provide necessary patient data with protected health information to the ODH Director and CareStar Community Services. The data shared would have been used only to complete the pilot program. Pilot operators and any subcontractors with access to the data would have been required to maintain Health Information Trust Alliance compliance.

The act appropriates $1 million of GRF, to be distributed to CareStar Community Services in both FY 2024 and FY 2025, to be used for the home health screening pilot program. If CareStar Community Services contracts with an institution of higher education to perform any services

[81] CareStar, CareStar Community Services, available at carestar.com.

related to the pilot program, administrative costs may not be more than 15% of the cost of the services provided.

Center for Community Health Worker Excellence

(R.C. 3701.0212; Sections 291.10 and 291.20)

The act creates the Center for Community Health Worker Excellence, which is a public-private partnership to support and foster the practice of community health workers and improve access to community health workers across the state. The act establishes the Center's duties which include: establishing an electronic platform that may be accessed statewide to connect community health workers with individuals or communities, evaluating and reporting on the state of the community health workforce in Ohio, creating and maintaining a website to coordinate resources for individuals practicing as community health workers, making continuing education hours or credits available for free to community health workers certified by the Board of Nursing, and providing financial assistance to employers that host or offer training to community health workers seeking certification.

The act provides for a board of directors, composed of members of the General Assembly, various state departments and agencies, and community organizations. The Board must issue an annual report to the Governor and the General Assembly describing the activities of the Center and any recommendations pertaining to the practice of community health workers. The act also authorizes Health Impact Ohio and the OHIO Alliance for Population Health at Ohio University to assist the Center in implementing its duties.

Smoking and tobacco

Minimum age to sell tobacco products

(R.C. 2927.02(B)(7), (E)(2), and (G))

The act expands the offense of illegal distribution of tobacco products by prohibiting any person from allowing an employee under 18 to sell such products. A violation is a fourth degree misdemeanor for a first offense, and a third degree misdemeanor for subsequent offenses.

The act clarifies that it is not a violation of either of the following for an employer to permit an employee age 18, 19, or 20 to sell a tobacco product:

- The prohibition against distributing tobacco products to any person under 21;
- The prohibition against distributing tobacco products in a place lacking required signage relating to the underage sale of tobacco products.

Shipment of vapor products and electronic smoking devices

(R.C. 2927.023)

Continuing law makes each of the following a criminal offense, punishable by a fine of up to $1,000 for each violation:

- For any person to cause cigarettes to be shipped to a person in Ohio other than an authorized recipient of tobacco products;

- For a common carrier, contract carrier, or other person to knowingly transport cigarettes to a person in Ohio that the carrier or other person reasonably believes is not an authorized recipient of tobacco products;
- For any person engaged in the business of selling cigarettes to ship cigarettes or cause cigarettes to be shipped in any container or wrapping other than the original container or wrapping without first marking the exterior with the word "cigarettes."

The act extends the same offenses to vapor products and electronic smoking devices, except that, for the third offense, the container or wrapping must instead be marked with the words "vapor products" or "electronic smoking devices." In addition, the act specifies that the following persons are authorized recipients of vapor products or electronic smoking devices: licensed tobacco or vapor distributors, vapor retailers (if all taxes have been paid), operators of customs bonded warehouses, state and federal government agencies and employees, and political subdivision agencies and employees.

Delivery services

(R.C. 2927.02(F))

The act prohibits a delivery service from accepting, transporting, delivering, or allowing pick-up of alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes to or from a person under 21. The delivery service must verify the age of such a person by driver's license, military identification, passport, or state identification that shows the person is 21 or older.

Electronic liquids (VETOED)

(R.C. 2927.02(A) and (B))

The Governor vetoed a provision that would have exempted liquids used in an electronic smoking device that do not contain nicotine from the law governing the giveaway, sale, or other distribution of tobacco products. Under continuing law, any liquid used in an electronic smoking device is considered to be a tobacco product and is, therefore, subject to regulation regardless of whether or not the liquid contains nicotine.

Proof of age

(R.C. 2927.02(A)(7) and (B)(1))

Continuing law prohibits vendors from selling or otherwise distributing tobacco products to persons younger than 21. The act requires vendors to verify proof of age prior to selling or otherwise distributing tobacco products. Continuing law defines proof of age as a "driver's license, military identification card, passport or state ID card that shows that a person is 21 or older."

Free samples (PARTIALLY VETOED)

(R.C. 2927(B)(8))

The Governor partially vetoed a provision that potentially would have authorized a person to give away free samples of cigarettes, other tobacco products, or alternative nicotine products, or coupons redeemable for such products, if all of the following applied:

- The person receiving the free sample or coupon is age 21 or over;
- The person giving the free sample or coupon verifies the recipient's age;
- The transaction is not prohibited by the Consumer Sales Practices Act or state cigarette minimum pricing laws;
- All state and local taxes on the cigarettes, other tobacco products, or alternative nicotine products have been paid.

The provision likely would have been preempted, for the most part, by federal law, which generally prohibits manufacturers, distributors, and retailers from distributing free samples of such products or coupons redeemable for free samples. The federal ban includes components and parts that do not contain nicotine. However, it includes an exception for smokeless tobacco products distributed in a "qualified adult only facility," i.e., a facility that meets several requirements, including verifying that all customers are age 18 or over.[82]

The Governor's partial veto effectively prohibits all persons from distributing free samples or coupons redeemable for free samples in Ohio under any circumstances, even if permitted under federal law. Prior state law did not explicitly prohibit distribution of free samples of other tobacco products or alternative nicotine products. Free samples of cigarettes might be prohibited, in some circumstances, under cigarette minimum pricing laws.[83]

Moms Quit for Two grant program

(Section 291.30)

The act continues Moms Quit for Two. Authorized in each biennium since 2015, it is a grant program administered by ODH that awards funds to government or private, nonprofit entities demonstrating the ability to deliver evidence-based tobacco cessation interventions to women who are pregnant or living with a pregnant woman and reside in communities that have the highest incidence of infant mortality, as determined by the ODH Director.

Retail tobacco stores

(R.C. 3794.03)

The act modifies an exemption from the state Smoke Free Workplace Law for retail tobacco stores. Under continuing law, a retail tobacco store, i.e., an establishment that derives

[82] 21 C.F.R. 1140.

[83] R.C. 1333.11 through 1333.21, not in the act.

more than 80% of its gross revenue from the sale of lighted or heated tobacco products and related smoking accessories, established before December 7, 2006, is exempt from the Smoke Free Workplace Law so long as it files an annual affidavit with ODH stating the percentage of its gross income derived from such sales. Conversely, a retail tobacco store established after December 7, 2006, or that relocates after that date, qualifies for exemption only if it files the affidavit, is the sole occupant of a freestanding structure, and if smoke from the store does not migrate to an enclosed area where smoking is prohibited.[84]

The act specifies that a change of ownership of a retail tobacco store established before December 7, 2006, does not constitute the beginning of a new operation or require the relocation of an existing operation to a freestanding structure in order to retain its exemption from the Smoke-Free Workplace Law.

Environmental health specialists

(R.C. 3776.01, 3776.02, 3776.03, 3776.04, 3776.05, 3776.06, 3776.07, 3776.08, 3776.09, 3776.10, 3776.11, 3776.12, and 3776.13; R.C. 4736.05 (repealed), 4736.06 (repealed), and 4736.10 (repealed); and conforming changes in R.C. 2925.01, 3701.33, 3701.83, 3717.27, 3717.47, 3718.011, 3718.03, 3742.03, 4743.02, 4743.03, 4743.04, 4743.05, 4743.07, 4776.20, 4799.01, and 5903.12)

The act recodifies R.C. Chapter 4736, the law governing environmental health specialists (EHSs) and environmental health specialists in training (EHSs in training), in new R.C. Chapter 3776. EHSs and EHSs in training are registered professionals who engage in the practice of environmental health. They typically are employed or contracted by local health districts, ODH, or the Department of Agriculture because of their specialized knowledge, training, and experience in the field of environmental health science.

The act adds that EHSs and EHSs in training may administer and enforce the law governing tattoos and body piercing. It also clarifies that EHSs and EHSs in training may administer and enforce the law governing hazardous waste. Under continuing law, an EHS or EHS in training engages in the practice of environmental health by administering and enforcing various laws, including laws governing swimming pools, retail food establishments, food service operations, household sewage treatment systems, solid waste, and construction and demolition debris.

The act also adds conforming changes to various sections in the Occupational Licensing law so that those provisions continue to subject EHSs and EHSs in training licenses to continuing requirements, including all of the following:

1. Allowing applicants to review examination results for at least 90 days after the announcement of the applicant's grade;

2. Provisions regarding restricting entry into the EHS or EHS in training occupation;

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[84] See also, R.C. 3794.01(H), not in the act.

3. Allowing an expired EHS or EHS in training license to be renewed without penalty and without re-examination if the license was not renewed because of the person's service in the armed forces; and

4. Requiring ODH take into consideration an EHS or EHS in training's status on the civil registry.

Rulemaking authority

The act broadens the ODH Director's rulemaking authority regarding EHSs and EHSs in training by authorizing the Director to adopt rules of a general application throughout Ohio for the practice of environmental health that are necessary to administer and enforce the EHS law, including rules governing all of the following:

1. The registration, advancement, and reinstatement of applicants to practice as EHSs or EHSs in training;

2. Educational requirements necessary for the qualification for registration as an EHS or an EHS in training, including criteria for determining what courses may be included toward fulfillment of the science course requirements;

3. Continuing education requirements for EHSs and EHSs in training, including the process for applying for continuing education credits; and

4. Any other rule necessary for the administration and enforcement of the EHS law.

Continuing education

The act requires EHSs in training to comply with the same continuing education requirements as are required for EHSs. The continuing education program requires EHSs (and EHSs in training under the act) biennially to complete 24 hours of continuing education in subjects relating to the practice of the profession. An EHS (and EHS in training under the act) cannot renew registration without submitting proof of completing the 24-hour continuing education requirement.

In addition, it adds that the Director must do both of the following for EHSs in training, in the same manner as the Director does for EHSs under continuing law:

1. Provide, at least once annually, to each EHS in training a list of approved courses that satisfy the continuing education program; and

2. Supply a list of continuing education courses to an EHS in training upon request.

EHS and EHS in training registration

The act clarifies that the ODH Director may renew an EHS or EHS in training registration 60 days prior to expiration, provided the applicant pays the renewal fee and submits proof of compliance with continuing education requirements. Prior law was silent on the amount of time the Director could begin to renew registrations prior to their expiration date.

It also specifies that an EHS in training has up to four years, with a two-year possible extension, to apply as an EHS. Under prior law, an EHS in training had three years to apply to register as an EHS. The Director may allow the two-year extension only for an EHS in training who

provides sufficient cause for not applying for registration as an EHS within the normal time period.

Additionally, the act eliminates the requirement that the Director annually prepare a list of the names and addresses of every registered EHS and EHS in training and a list of every EHS and EHS in training whose registration had been suspended or revoked within the previous year. It also eliminates the requirement that the Director assign a serial number to each certificate of registration and include it in the registration records. However, the act retains other record-keeping requirements, such as the names and addresses of each applicant, the name and address of the employer or business connection of each applicant, application dates, an applicant's educational and employment qualifications, and the action taken by the Director on each application.

The act prohibits a person who is not a registered EHS in training from using the title "registered environmental health specialist in training" or the abbreviation "E.H.S.I.T.," or representing self as a registered EHS in training. Violating this prohibition is a fourth degree misdemeanor. This prohibition mirrors the prohibition against a person who is not a registered EHS from using the title "registered environmental health specialist" or the abbreviation "R.E.H.S.," or representing self as a registered EHS.

Advisory Board

The act removes the requirement that the ODH Director obtain the advice and consent of the Senate when appointing members of the Environmental Health Specialist Advisory Board. The Advisory Board, made up of seven appointees who are all EHSs, advises the Director regarding the registration of EHSs and EHSs in training, continuing education requirements, EHS examinations, the education and employment criteria for EHS and EHS in training applicants, and any other matters as may be of assistance to the Director.

Out-of-state reciprocity

The act eliminates standard license reciprocity provisions that were scheduled to take effect on December 29, 2023, and restores and retains law that generally requires out-of-state applicants to have at least the same qualifications as that of in-state EHS or EHS in training applicants.