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.

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.

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.

- Requires the Director to create the Ohio Parkinson's Disease Research Registry website to provide information regarding Parkinson's disease and the Registry.

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.

Hospital price transparency

- Repeals existing hospital price transparency requirements and instead requires hospitals to comply with federal law.
- Requires the ODH Director to refer alleged violations of the federal price transparency law to the U.S. Centers for Medicare and Medicaid Services (CMS).
- Requires the Director to create a public list of hospitals not in compliance with the price transparency requirements.

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.

Certificates of need – maximum capital expenditures

- Eliminates laws that (1) prohibit 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) authorize 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 limits under existing law 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

- Creates an exception from home health licensure for individuals providing self-directed services to Medicaid participants.

Home health screening pilot program

- Requires the ODH Director to establish a two-year home health screening pilot program in collaboration with CareStar Community Services.
- Requires the Medicaid Director to enter into a data sharing agreement with the ODH Director regarding the pilot program.
- Appropriates $1 million in GRF funds in FY 2024 and FY 2025 to be distributed to CareStar Community Services for the purposes of the pilot.

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.

Other tobacco law changes

- Specifies that only electronic smoking liquids containing nicotine are subject to the law governing the giveaway, sale, and other distribution of tobacco products.
- Prohibits a vendor selling a flavored electronic liquid unless that flavored electronic liquid has first received a marketing order from the United States Food and Drug Administration (FDA).
- Requires tobacco product vendors to verify proof of age prior to selling or otherwise distributing tobacco products.
- Explicitly prohibits giving away or otherwise distributing free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for such products to persons under 21 and without first verifying proof of age.
- Modifies an existing exemption from the Smoke Free Workplace Law for retail tobacco stores.

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.

Sudden Unexpected Death in Epilepsy Awareness Day

- Designates October 26 as "Sudden Unexpected Death in Epilepsy Awareness Day."

Infant mortality scorecard

(R.C. 3701.953)

The Ohio Department of Health (ODH) is required to create and publish an infant mortality scorecard tracking statewide data related to infant mortality. Current law requires it to publish the scorecard on its website and update the data quarterly. The bill requires ODH instead to build and automate a publicly available data dashboard that refreshes data in real time.

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 bill establishes an option for remote monitoring of newborn safety incubators. Under current law, ODH has rulemaking authority to set monitoring standards for newborn safety incubators. Current 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.[76] The bill instead 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 bill 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 bill 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 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.

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

Newborn screening – Duchenne muscular dystrophy

(R.C. 3701.501)

The bill requires the ODH Director to specify in rule Duchenne muscular dystrophy as a disorder for newborn screening beginning 240 days after the bill's effective date. Generally, existing law requires that each newborn 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. To assist the Director in determining other disorders for which a newborn must be screened, Ohio law has established the Newborn Screening Advisory Council (NSAC). As part of this law, the NSAC is to evaluate disorders and make recommendations to the Director.

WIC vendors

(Section 291.40)

The bill 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.

WIC is the Special Supplemental Nutrition Program for Women, Infants, and Children. WIC helps eligible pregnant and breastfeeding women, women who recently had a baby, infants, and children up to five years of age. It provides nutrition education, breastfeeding education and support; supplemental, highly nutritious foods and iron-fortified infant formula; and referral to prenatal and pediatric health care and other maternal and child health and human service programs.

Program for Children and Youth with Special Health Care Needs

(R.C. 3701.023 with conforming changes in numerous other R.C. sections)

The bill changes the name of the Program for Medically Handicapped Children to 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.

Dentist Loan Repayment Program

(R.C. 3702.87)

The bill 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 existing

Dentist Loan Repayment Program. Under the bill, 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.[77] The bill does not modify any other provisions of the program, including related to eligibility requirements or the application process.

Parkinson's Disease Registry

(R.C. 3701.25 to 3701.255)

The bill requires the ODH Director to establish and maintain a Parkinson's Disease Registry for the collection and monitoring of Ohio-specific data related to Parkinson's disease and Parkinsonisms. Parkinson's disease is a chronic and progressive neurological disorder resulting from a deficiency of the neurotransmitter dopamine as a consequence of specific degenerative changes in the area of the brain called the basal ganglia. It is characterized by tremor at rest, slow movements, muscle rigidity, stooped posture, and unsteady or shuffling gait. 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 data collected by the Registry must be included in the Ohio Public Health Information Warehouse.

Health care provider reporting

The bill 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.

When a patient is first diagnosed or treated for Parkinson's disease, the medical professional must inform the patient of the Registry and of the patient's right to not participate. If a patient chooses not to participate in the Registry, the medical professional or health care facility must report the existence of a Parkinson's disease or Parkinsonism case and no other information. The bill 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.

[77] R.C. 3702.85, not in the bill.

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.

Timeline

Within 30 days of the bill's effective date, the Director must publish the reporting requirements on ODH's website. The Director must establish the Parkinson's Disease Registry within one year of the bill's effective date. Medical professionals and health care facilities must begin reporting data to the Registry within 30 days of the Registry's establishment, and at least quarterly thereafter.

Contracts and agreements related to the registry

The bill 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 their respective institutional review board and provide documentation to the Director that demonstrates they have established the procedures and ability to maintain confidentiality.

The Director is responsible for coordinating any contact with patients on the Registry. An individual that obtains information from the Registry may not contact a patient in the Registry, or a patient's family, unless the Director obtains permission from the patient or the patient's family.

Confidentiality of information

Generally, all information collected pursuant to the bill is confidential. The Director must establish a coding system that removes individually identifying information about an individual with Parkinson's disease. The bill provides that an authorized disclosure must include only the data and information necessary for the stated purpose of the disclosure, be used only for the approved purpose, and not be further disclosed. Each patient or patient's guardian must have access to their own data.

The Director is required to maintain an accurate record of all persons who are given access to confidential information under the bill. The record must include (1) the name of the person authorizing access, (2) the name, title, address, and organizational affiliation of any person given access, (3) the access dates, and (4) the specific purpose for which information is being used. The record of access must be open to public inspection during normal ODH operating hours.

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

The bill 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 bill creates in ODH a Parkinson's Disease Registry Advisory Committee. The Director must appoint the following as 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.

Meetings and compensation

The first meeting must be held within 90 days after the bill's effective date. Thereafter, meetings must be twice a year at the call of the Director, 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, staff, and other administrative support to the Committee.

Duties

The Committee is required to do all of the following:

1. Assist the Director in developing and implementing the Registry;

2. Determine the data to be collected and maintained, based on patient demographics, geography, diagnosis, and information that enables de-duplication of patient records in the Registry;

3. Determine the information to be included on ODH's Ohio Parkinson's Disease Research Registry website (see below);

4. Advise the Director on maintaining and improving the Registry;

5. Conduct a review of the Registry within five years of the effective date of the bill assessing how it is being used, whether it is fulfilling its intended purpose, and recommending necessary changes.

Report

The bill requires the Director to submit a Parkinson's disease report to the General Assembly within six months of the establishment of the Registry and annually thereafter. The report must include (1) the incidence and rates 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.

Ohio Parkinson's Research Registry website

The bill requires the Director to create and maintain the Ohio Parkinson's Research Registry website within one year of the bill's effective date. The website must describe the

Registry and provide any relevant or helpful information determined by the Advisory Committee. Additionally, the Director must publish the annual report described above to the website.

Rules

The Director is required to adopt rules that (1) specify the data to be collected and the format in which it is to be submitted, in collaboration with the Advisory Committee, (2) develop guidelines and procedures for requesting and granting access to data, and (3) create a coding system to remove individually identifying information from the Registry data. The Director is responsible for periodically reviewing data collection requirements to adapt to new knowledge and technology regarding Parkinson's disease and health data collection.

Plasmapheresis supervision

(R.C. 3725.05)

The bill 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. Current law limits the providers to medical technologists approved by the ODH Director, physicians, and registered nurses. Under the bill, 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 bill 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 bill 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 by the bill 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 not later than one year after the provision's effective date, must include the use of a surgical smoke evacuation system. The system required by the bill 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 is authorized by the bill to adopt rules to implement the bill's requirements. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

HIV testing

(R.C. 3701.242)

Current law authorizes HIV testing of an individual only if a health care provider determines the test is necessary for providing diagnosis and treatment. Additionally, the

individual must be notified of the right to an anonymous test. Instead, the bill 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 bill retains the right itself.

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 bill 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.[78] Under H.B. 110, the main operating budget of the 134th General Assembly, this law is 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.

Hospital price transparency

(R.C. 3727.31 to 3727.33; R.C. 3727.44 (3727.34); repealed R.C. 3727.42, 3727.43, and 3727.45)

The bill repeals the hospital price transparency requirements in current law and instead requires hospitals in this state to comply with the federal requirements set forth by the U.S. Centers for Medicare and Medicaid Services (CMS). The bill defines the federal price transparency law as section 2718(e) of the "Public Health Service Act," and hospital price transparency rules adopted by the U.S. Department of Health and Human Services and CMS implementing that section.

The ODH Director must refer allegations of noncompliance to CMS, but has no independent duty to evaluate complaints or enforce the federal price transparency law. However, the bill does require the ODH Director to create and make publicly available a list identifying each hospital upon which CMS imposes a civil monetary penalty. The initial list of noncompliant hospitals must be created and included on ODH's website not later than 90 days after the provision's effective date. The ODH Director then must update the list and website at least every 30 days thereafter. Upon receiving notice from CMS or a hospital (with appropriate documentation) that a hospital has requested a hearing to appeal a civil monetary penalty, the ODH Director must update the list to indicate that the penalty is under review. If the penalty is overturned in full or in part by a final and binding decision, the ODH Director must update the list to reflect that result.

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

Federal hospital price transparency rules

Since January 1, 2021, each hospital operating in the U.S. is required to make public both of the following under CMS's hospital price transparency rule:

- A machine-readable file containing a list of all standard charges for all items and services;
- A consumer-friendly list of standard charges for a limited set of shoppable services.

Under the current rule, the list of standard charges must include, for each item or service, a description, gross charge, payor-specific negotiated charge, de-identified minimum negotiated charge, de-identified maximum negotiated charge, discounted cash price, and any billing or accounting code. The list must be updated at least annually.

In the case of shoppable services, a hospital must make public the standard charges for as many of the 70 CMS-specified shoppable services it provides. It also must make public as many additional hospital-selected shoppable services for a combined total of at least 300 shoppable services. CMS requires the standard charge information for shoppable services to be updated annually.

Should a hospital fail to comply with the federal hospital price transparency rules, CMS may provide written notice to the hospital of a specific violation, request a corrective action plan from the hospital, or impose a civil monetary penalty on the hospital and publicize the penalty on a CMS website. Monetary penalties range from $300 per day for smaller hospitals with a bed count of 30 or fewer, to $10 per bed per day for hospitals with a bed count greater than 30, up to a maximum daily amount of $5,500.[79]

Current state requirements

Under existing Ohio law repealed by the bill, a hospital must compile and make available to the public a price information list containing all of the following:

- The usual and customary room and board charges for each level of care within the hospital, including private rooms, semiprivate rooms, other multiple patient rooms, and intensive care or other specialty units;
- Rates charged for nursing care;
- The usual and customary charges for the following services: the 30 most common x-ray and radiologic procedures; the 30 most common laboratory procedures; emergency room services; operating room services; delivery room services; physical, occupational, and pulmonary therapy services; and any other services designated as high volume in rules adopted by the ODH Director;
- The hospital's billing policies, including whether it charges interest on an amount not paid in full by any person or government entity and the interest rate charged;

[79] 45 C.F.R. 180.

- Whether the charges listed include fees for the services of hospital-based anesthesiologists, radiologists, pathologists, and emergency room physicians and, if a charge does not include those fees, how that fee information may be obtained.

Current law requires the hospital to make the price information list publicly available in three ways. First, it must be available free of charge on the hospital's website. Second, on request, the hospital must provide a paper copy of the list to any person or governmental agency, subject to payment of a reasonable fee for copying and processing. And third, at the time of a patient's admission or as soon as practical after admission, the hospital must inform the patient of the list's availability and, on request, provide the patient with a free copy.

If a hospital does not make its price information list publicly available, the ODH Director may seek from the court of common pleas a temporary or permanent injunction restraining the hospital from failing to make it publicly available.

Nursing home change of operator

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

Actions that constitute a change of operator

The bill adds several circumstances that, upon their occurrence, constitute a nursing home change of operator. The bill 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 existing law, the dissolution of a partnership constitutes a change of operator. The bill 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 bill 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 bill provides that a contract for an individual or entity to manage a nursing home as an operator's agent constitutes a change of operator.

Conversely, the bill 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 bill specifies that the 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 bill modifies the existing law requirement that an individual or entity who is assigned or transferred the operation or nursing home submit documentation to the ODH Director of certain information before a change of operator may occur to instead require 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 is required to prescribe the form for the application and make the application available on its website. As part of the application, an applicant must provide all of the following:

- Full and complete disclosure of all direct and indirect owners that own at least five percent of:
  - The applicant, if the applicant is an entity;
  - The owner of the nursing home, if the owner is a different individual or entity from the applicant;
  - The manager of the nursing home, if the manager 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 the applicant, owner, or manager of the nursing home.
- Full and complete 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.
- Submission of all fully executed contracts with related parties, lease agreements, and management agreements pertaining to the nursing home.
- 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 existing law, an individual assuming the operation of a nursing home must provide to the ODH Director evidence of a bond or other financial security. Under the bill, 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 bill 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 bill 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 must have at least five years of experience as (1) an administrator of a nursing home located in Ohio or another state or (2) be 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 bill, an individual or entity assuming control of a nursing home must submit to the ODH Director copies of 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 bill requires an applicant to submit copies of the nursing home's policies and procedures and demonstrate 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 bill 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 bill 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 bill authorizes an applicant to appeal the denial in accordance with the Administrative Procedure Act.

Under the bill, 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 of a change in information as required, the bill 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 bill 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 bill 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 bill 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.

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. One activity that requires a review under the CON Program is an expenditure of more than 110% of the maximum capital expenditure specified in a CON concerning long-term care beds.

The bill eliminates the 110% capital expenditure limitation and, as a result, it eliminates the need to obtain a new CON based on a project's cost after a CON has been approved. Related to this change, the bill 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, prohibits 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 bill makes several changes to current law regarding costs that a health care provider or medical records company may charge for copies of medical records. In setting fee caps, current law distinguishes between record requests made by the patient or the patient's personal representative and requests made by anyone else. The bill modifies the law pertaining to the first category.

First, the bill 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.

Second, related to costs that may be charged for those requests, the bill generally eliminates specific dollar caps based on the number of pages, and instead specifies that costs for such 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. The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) authorizes reasonable, cost-based fees, including only costs for copying labor, supplies for creating the record, postage if applicable, and preparing an explanation or summary.[80] The bill does, however, impose a $50 cap in the case of requests for access to digital records or electronically transmitted records.

Finally, the bill 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 current 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 bill 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.

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 bill creates an exception in the home health licensure law for individuals who provide self-directed services[81] to Medicaid participants, including individuals who are certified by the

[80] 45 C.F.R. 164.524(c)(4).

[81] 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.

Department of Aging or registered as self-directed individual providers through an area agency on aging. Under the bill, such providers are not required to be licensed as home health providers.

Home health screening pilot program

(Sections 291.10, 291.20, and 291.50)

The bill 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.[82] 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 is required to enter into a cooperative agreement with CareStar Community Services within 30 days of the bill's effective date, 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.

The Medicaid Director must 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 may only be used to complete the pilot program. Pilot operators and any subcontractors with access to the data are required to maintain Health Information Trust Alliance compliance.

CareStar Community Services, in collaboration with the ODH Director, is required to submit two reports to the Governor, the Speaker of the House of Representatives, the President of the Senate, 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 bill 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

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

Community Services contracts with an institution of higher education to perform any services related to the pilot program, administrative costs may not be more than 15% of the cost of the services provided.

Smoking and tobacco

Minimum age to sell tobacco products

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

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

The bill 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 bill 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 bill specifies that the following persons are “authorized recipients of vapor products or electronic smoking devices”: licensed tobacco or vapor retailers or distributors, 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 bill 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

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

Under current 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. In contrast, the bill specifies that only "electronic liquids" which, by definition, contain nicotine are considered tobacco products. Accordingly, the bill exempts liquids that do not contain nicotine from the law governing the giveaway, sale, or other distribution of tobacco products.

The bill prohibits any person from giving away, selling, offering for sale, advertising for sale, displaying, or marketing flavored electronic liquids unless the flavored electronic liquid has first received a marketing order from the United States Food and Drug Administration (FDA). A marketing order is an FDA authorization to sell a new tobacco product. Flavored electronic liquids are any electronic liquid that has a characterizing flavor or smell other than tobacco or menthol.

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 bill 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

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

Continuing law prohibits persons from "giving" tobacco products to persons under 21 years of age. The bill expands on this by explicitly prohibiting giving away or otherwise distributing free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for such products to persons under 21 and without first verifying proof of age. Additionally, any vendor wishing to give away such samples must do so in accordance with the Trade Practices Law and Consumer Sales Practices Law and must also pre-pay any applicable taxes.

Moms Quit for Two grant program

(Section 291.30)

The bill 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 bill modifies an exemption from the Smoke Free Workplace Law for retail tobacco stores. Under continuing law, a retail tobacco store, i.e., an establishment that derives 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 the Department of Health 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 aforementioned 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.[83]

The bill 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 for the purposes of retaining the store's exemption from the Smoke-Free Workplace Law.

Sudden Unexpected Death in Epilepsy Awareness Day

(R.C. 5.2320; Section 700.10)

The bill designates October 26 as "Sudden Unexpected Death in Epilepsy Awareness Day" and names this provision Brenna's Law.

[83] See also, R.C. 3794.01(H), not in the bill.