(128th General Assembly)
(Substitute House Bill Number 198)

AN ACT

To amend sections 3923.91 and 5111.242 and to enact sections 185.01 to 185.12, 3333.611, and 3333.612 of the Revised Code, to amend Section 309.30.25 of Am. Sub. H.B. 1 of the 128th General Assembly, and to amend Section 5 of Sub. H.B. 125 of the 127th General Assembly, as subsequently amended, to establish the Patient Centered Medical Home Education Pilot Project, to authorize implementation of a primary care component of the Choose Ohio First Scholarship Program, to extend the moratorium concerning most favored nation clauses in hospital contracts, to revise the law governing the Medicaid reimbursement for nursing facilities' tax costs, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3923.91 and 5111.242 be amended and sections 185.01, 185.02, 185.03, 185.04, 185.05, 185.06, 185.07, 185.08, 185.09, 185.10, 185.11, 185.12, 3333.611, and 3333.612 of the Revised Code be enacted to read as follows:

Sec. 185.01. As used in this chapter:

(A) "Advanced practice nurse" has the same meaning as in section 4723.01 of the Revised Code.

(B) "Collaboration" has the same meaning as in section 4723.01 of the Revised Code.

(C) "Health care coverage and quality council" means the entity established under section 3923.90 of the Revised Code.

(D) "Patient centered medical home education advisory group" means the entity established under section 185.03 of the Revised Code to implement and administer the patient centered medical home education pilot project.

(E) "Patient centered medical home education pilot project" means the

pilot project established under section 185.02 of the Revised Code.

Sec. 185.02. (A) There is hereby established the patient centered medical home education pilot project. The pilot project shall be implemented and administered by the patient centered medical home education advisory group.

(B) The pilot project shall be operated to advance medical education in the patient centered medical home model of care. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinated patient centered care.

(C) The pilot project shall not be operated in a manner that requires a patient, unless otherwise required by the Revised Code, to receive a referral from a physician in a practice selected for inclusion in the pilot project under section 185.05 of the Revised Code as a condition of being authorized to receive specialized health care services from an individual licensed or certified under Title XLVII of the Revised Code to provide those services.

Sec. 185.03. (A) The patient centered medical home education advisory group is hereby created for the purpose of implementing and administering the patient centered medical home pilot project. The advisory group shall develop a set of expected outcomes for the pilot project.

(B) The advisory group shall consist of the following voting members:

(1) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the university of Toledo college of medicine;

(2) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the Boonshoft school of medicine at Wright state university;

(3) One individual with expertise in the training and education of primary care physicians who is appointed by the president and dean of the northeastern Ohio universities colleges of medicine and pharmacy;

(4) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the Ohio university college of osteopathic medicine;

(5) Two individuals appointed by the governing board of the Ohio academy of family physicians;

(6) One individual appointed by the governing board of the Ohio chapter of the American college of physicians;

(7) One individual appointed by the governing board of the American academy of pediatrics;

(8) One individual appointed by the governing board of the Ohio

osteopathic association;

(9) One individual with expertise in the training and education of advanced practice nurses who is appointed by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;

(10) One individual appointed by the governing board of the Ohio nurses association;

(11) One individual appointed by the governing board of the Ohio association of advanced practice nurses;

(12) A member of the health care coverage and quality council, other than the advisory group member specified in division (C)(2) of this section, appointed by the superintendent of insurance.

(C) The advisory group shall consist of the following nonvoting, ex officio members:

(1) The executive director of the state medical board, or the director's designee;

(2) The executive director of the board of nursing or the director's designee;

(3) The chancellor of the Ohio board of regents, or the chancellor's designee;

(4) The individual within the department of job and family services who serves as the director of medicaid, or the director's designee;

(5) The director of health or the director's designee.

(D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term.

Vacancies shall be filled in the manner provided for original appointments.

Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties.

(E) The advisory group shall select from among its members a chairperson and vice-chairperson. The advisory group may select any other officers it considers necessary to conduct its business.

A majority of the members of the advisory group constitutes a quorum for the transaction of official business. A majority of a quorum is necessary for the advisory group to take any action, except that when one or more members of a quorum are required to abstain from voting as provided in division (C)(1)(d) or (C)(2)(c) of section 185.05 of the Revised Code, the

number of members necessary for a majority of a quorum shall be reduced accordingly.

The advisory group shall meet as necessary to fulfill its duties. The times and places for the meetings shall be selected by the chairperson.

(F) Sections 101.82 to 101.87 of the Revised Code do not apply to the advisory group.

Sec. 185.04. The patient centered medical home education advisory group may appoint an executive director and employ other staff as it considers necessary to fulfill its duties. Until the advisory group identifies an alternative, the Boonshoft school of medicine at Wright state university shall provide administrative support to the advisory group.

Sec. 185.05. (A) The patient centered medical home education advisory group shall accept applications for inclusion in the patient centered medical home education pilot project from primary care practices with educational affiliations, as determined by the advisory group, with one or more of the following:

(1) The Boonshoft school of medicine at Wright state university;

(2) The university of Toledo college of medicine;

(3) The northeastern Ohio universities colleges of medicine and pharmacy;

(4) The Ohio university college of osteopathic medicine;

(5) The college of nursing at the university of Toledo;

(6) The Wright state university college of nursing and health;

(7) The college of nursing at Kent state university;

(8) The university of Akron college of nursing;

(9) The school of nursing at Ohio university.

(B)(1) Subject to division (C)(1) of this section, the advisory group shall select for inclusion in the pilot project not more than the following number of physician practices:

(a) Ten practices affiliated with the Boonshoft school of medicine at Wright state university;

(b) Ten practices affiliated with the university of Toledo college of medicine;

(c) Ten practices affiliated with the northeastern Ohio universities colleges of medicine and pharmacy;

(d) Ten practices affiliated with the centers for osteopathic research and education of the Ohio university college of osteopathic medicine.

(2) Subject to division (C)(2) of this section, the advisory group shall select for inclusion in the pilot project not less than the following number of advanced practice nurse primary care practices:

(a) One practice affiliated with the college of nursing at the university of Toledo;

(b) One practice affiliated with the Wright state university college of nursing and health;

(c) One practice affiliated with the college of nursing at Kent state university or the university of Akron college of nursing;

(d) One practice affiliated with the school of nursing at Ohio university.

(C)(1) All of the following apply with respect to the selection of physician practices under division (B) of this section:

(a) The advisory group shall strive to select physician practices in such a manner that the pilot project includes a diverse range of primary care specialties, including practices specializing in pediatrics, geriatrics, general internal medicine, or family medicine.

(b) When evaluating an application, the advisory group shall consider the percentage of patients in the physician practice who are part of a medically underserved population, including medicaid recipients and individuals without health insurance.

(c) The advisory group shall select not fewer than six practices that serve rural areas of this state, as those areas are determined by the advisory group.

(d) A member of the advisory group shall abstain from participating in any vote taken regarding the selection of a physician practice if the member would receive any financial benefit from having the practice included in the pilot project.

(2) All of the following apply with respect to the selection of advanced practice nurse primary care practices under division (B) of this section:

(a) When evaluating an application, the advisory group shall consider the percentage of patients in the advanced practice nurse primary care practice who are part of a medically underserved population, including medicaid recipients and individuals without health insurance.

(b) If the advisory group determines that it has not received an application from a sufficiently qualified advanced practice nurse primary care practice affiliated with a particular institution specified in division (B)(2) of this section, the advisory group shall make the selections required under that division in such a manner that the greatest possible number of those institutions are represented in the pilot project. To be selected in this manner, a practice remains subject to the eligibility requirements specified in division (B) of section 185.06 of the Revised Code. As specified in division (B)(2) of this section, the number of practices selected for inclusion in the pilot project shall be at least four.

(c) A member of the advisory group shall abstain from participating in any vote taken regarding the selection of an advanced practice nurse primary care practice if the member would receive any financial benefit from having the practice included in the pilot project.

Sec. 185.06. (A) To be eligible for inclusion in the patient centered medical home education pilot project, a physician practice shall meet all of the following requirements:

(1) Consist of physicians who are board-certified in family medicine, general pediatrics, or internal medicine, as those designations are issued by a medical specialty certifying board recognized by the American board of medical specialties or American osteopathic association;

(2) Be capable of adapting the practice during the period in which the practice receives funding from the patient centered medical home education advisory group in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the advisory group;

(3) Comply with any reporting requirements recommended by the health care coverage and quality council under division (A)(12) of section 3923.91 of the Revised Code;

(4) Meet any other criteria established by the advisory group as part of the selection process.

(B) To be eligible for inclusion in the pilot project, an advanced practice nurse primary care practice shall meet all of the following requirements:

(1) Consist of advanced practice nurses who meet all of the following requirements:

(a) Hold a certificate to prescribe issued under section 4723.48 of the Revised Code;

(b) Are board-certified as a family nurse practitioner or adult nurse practitioner by the American academy of nurse practitioners or American nurses credentialing center, board-certified as a geriatric nurse practitioner or women's health nurse practitioner by the American nurses credentialing center, or is board-certified as a pediatric nurse practitioner by the American nurses credentialing center or pediatric nursing certification board;

(c) Has a collaboration agreement with a physician with board certification as specified in division (A)(1) of this section and who is an active participant on the health care team.

(2) Be capable of adapting the primary care practice during the period in which the practice receives funding from the advisory group in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are

established by the advisory group;

(3) Comply with any reporting requirements recommended by the health care coverage and quality council under division (A)(12) of section 3923.91 of the Revised Code;

(4) Meet any other criteria established by the advisory group as part of the selection process.

Sec. 185.07. The patient centered medical home education advisory group shall enter into a contract with each primary care practice selected for inclusion in the patient centered medical home education pilot project. The contract shall specify the terms and conditions for inclusion in the pilot project, including a requirement that the practice provide primary care services to patients and serve as the patients' medical home. The contract shall also require the practice to participate in the training of medical students, advanced practice nursing students, or primary care residents.

Sec. 185.08. The patient centered medical home education pilot project shall include the following services and supports for each primary care practice included in the pilot project:

(A) Upon securing adequate funding, the patient centered medical home education advisory group shall provide to each participating primary care practice reimbursement for not more than seventy-five per cent of the cost incurred in purchasing any health information technology required to convert to the patient centered medical home model of care, including the cost incurred for appropriate training and technical support.

(B) The physicians, advanced practice nurses, and staff of the practice shall receive comprehensive training on the operation of a patient centered medical home, including assistance with leadership training, scheduling changes, staff support, and care management for chronic health conditions.

Sec. 185.09. (A) The patient centered medical home education advisory group shall jointly work with all medical and nursing schools in this state to develop appropriate curricula designed to prepare primary care physicians and advanced practice nurses to practice within the patient centered medical home model of care. In developing the curricula, the advisory group, medical schools, and nursing schools shall include all of the following:

(1) Components for use at the medical student, advanced practice nursing student, and primary care resident training levels;

(2) Components that reflect, as appropriate, the special needs of patients who are part of a medically underserved population, including medicaid recipients, individuals without health insurance, individuals with disabilities, individuals with chronic health conditions, and individuals within racial or ethnic minority groups;

(3) Components that include training in interdisciplinary cooperation between physicians and advanced practice nurses in the patient centered medical home model of care, including curricula ensuring that a common conception of a patient centered medical home model of care is provided to medical students, advanced practice nurses, and primary care residents.

(B) The advisory group shall work in association with the medical and nursing schools to identify funding sources to ensure that the curricula developed under division (A) of this section are accessible to medical students, advanced practice nursing students, and primary care residents. The advisory group shall consider scholarship options or incentives provided to students in addition to those provided under the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code.

Sec. 185.10. The patient centered medical home education advisory group shall seek funding sources for the patient centered medical home education pilot project. In doing so, the advisory group may apply for grants, seek federal funds, seek private donations, or seek any other type of funding that may be available for the pilot project. To ensure that appropriate sources of and opportunities for funding are identified and pursued, the advisory group may ask for assistance from the health care coverage and quality council.

Sec. 185.11. (A) All funds received on behalf of the patient centered medical home education advisory group shall be deposited into an account maintained in a financial institution for the benefit of the patient centered medical home education pilot project. The account shall be in the custody of the treasurer of state, but shall not be part of the state treasury. All disbursements from the account shall be released by the treasurer of state only upon a request bearing the signature of the advisory group's chairperson, another person designated by the advisory group, or, if an executive director has been appointed, the advisory group's executive director.

(B) The advisory group may use the funds deposited into the account as it considers necessary to fulfill its duties in implementing and administering the pilot project.

Sec. 185.12. (A) The patient centered medical home education advisory group shall prepare reports of its findings and recommendations from the patient centered medical home education pilot project. Each report shall include an evaluation of the learning opportunities generated by the pilot project, the physicians and advanced practice nurses trained in the pilot project, the costs of the pilot project, and the extent to which the pilot

project has met the set of expected outcomes developed under division (A) of section 185.03 of the Revised Code.

(B) The reports shall be completed in accordance with the following schedule:

(1) An interim report not later than six months after the date on which the first funding is released pursuant to section 185.11 of the Revised Code;

(2) An update of the interim report not later than one year after the date on which the first funding is released;

(3) A final report not later than two years after the date on which the first funding is released.

(C) The advisory group shall submit each of the reports to the governor and, in accordance with section 101.68 of the Revised Code, to the general assembly.

Sec. 3333.611. (A) All of the following individuals shall jointly develop a proposal for the creation of a primary care medical student component of the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code under which scholarships are annually made available and awarded to medical students who meet the requirements specified in division (D) of this section:

(1) The dean of the Ohio state university school of medicine;

(2) The dean of the Case western reserve university school of medicine;

(3) The dean of the university of Toledo college of medicine;

(4) The president and dean of the northeastern Ohio universities colleges of medicine and pharmacy;

(5) The dean of the university of Cincinnati college of medicine;

(6) The dean of the Boonshoft school of medicine at Wright state university;

(7) The dean of the Ohio university college of osteopathic medicine.

(B) The individuals specified in division (A) of this section shall consider including the following provisions in the proposal:

(1) Establishing a scholarship of sufficient size to permit annually not more than fifty medical students to receive scholarships;

(2) Specifying that a scholarship, once granted, may be provided to a medical student for not more than four years.

(C) The individuals specified in division (A) of this section shall submit the proposal for the component to the chancellor of the Ohio board of regents not later than six months after the effective date of this section. The chancellor shall review the proposal and determine whether to implement the component as part of the program.

(D) To be eligible for a scholarship made available under the

component, a medical student shall meet all of the following requirements:

(1) Participate in identified patient centered medical home model training opportunities during medical school;

(2) Commit to a post-residency primary care practice in this state for not less than three years;

(3) Accept medicaid recipients as patients, without restriction and, as compared to other patients, in a proportion that is specified in the scholarship.

Sec. 3333.612. (A) All of the following individuals shall jointly develop a proposal for the creation of a primary care nursing student component of the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code under which scholarships are annually made available and awarded to advanced practice nursing students who meet the requirements specified in division (D) of this section:

(1) The dean of the college of nursing at the university of Toledo;

(2) The dean of the Wright state university college of nursing and health;

(3) The dean of the college of nursing at Kent state university;

(4) The dean of the university of Akron college of nursing;

(5) The director of the school of nursing at Ohio university.

(B) The individuals specified in division (A) of this section shall consider including the following provisions in the proposal:

(1) Establishing a scholarship of sufficient size to permit annually not more than thirty advanced practice nursing students to receive scholarships;

(2) Specifying that a scholarship, once granted, may be provided to an advanced practice nursing student for not more than three years.

(C) The individuals specified in division (A) of this section shall submit the proposal for the component to the chancellor of the Ohio board of regents not later than six months after the effective date of this section. The chancellor shall review the proposal and determine whether to implement the component as part of the program.

(D) To be eligible for a scholarship made available under the component, an advanced practice nursing student shall meet all of the following requirements:

(1) Participate in identified patient centered medical home model training opportunities during nursing school;

(2) Commit to an advanced practice nursing primary care practice in this state after completing nursing school for not less than three years;

(3) Accept medicaid recipients as patients, without restriction and, as compared to other patients, in a proportion that is specified in the

scholarship.

Sec. 3923.91. (A) The health care coverage and quality council shall do all of the following:

(1) Advise the governor and general assembly on strategies to improve health care programs and health insurance policies and benefit plans;

(2) Monitor and evaluate implementation of strategies for improving access to health insurance coverage and improving the quality of the state's health care system, identify barriers to implementing those strategies, and identify methods for overcoming the barriers;

(3) Catalog existing health care data reporting efforts and make recommendations to improve data reporting in a manner that increases transparency and consistency in the health care and insurance coverage systems;

(4) Study health care financing alternatives that will increase access to health insurance coverage, promote disease prevention and injury prevention, contain costs, and improve quality;

(5) Evaluate the systems that individuals use to obtain or otherwise become connected with health insurance and recommend improvements to those systems or the use of alternative systems;

(6) Recommend minimum coverage standards for basic and standard health insurance plans offered by insurance carriers;

(7) Recommend strategies, such as subsidies, to assist individuals in being able to afford health insurance coverage;

(8) Recommend strategies to implement health information technology to support improved access and quality and reduced costs in the state's health care system;

(9) Study alternative care management options for medicaid recipients who are not required to participate in the care management system established under section 5111.16 of the Revised Code;

(10) Review the medical home model of care concept, propose the characteristics of a patient centered medical home model of care, pursue appropriate funding opportunities for the development of a patient centered medical home model of care, and propose payment reforms that encourage implementation of a patient centered medical home model of care;

(11) Collaborate with the chancellor of the Ohio board of regents or any other entity the council considers appropriate to review issues that may cause limitations on the use of a patient centered medical home model of care;

(12) Recommend reporting requirements for any physician practice or advanced practice nurse primary care practice using a patient centered

medical home model of care;

(13) Perform any other duties specified in rules adopted by the superintendent of insurance.

(B) The council shall prepare and issue an annual report, which may include recommendations, on or before the thirty-first day of December of each year. The council may prepare and issue other reports and recommendations at other times that the council finds appropriate.

(C) The superintendent may adopt rules as necessary for the council to carry out its duties. The rules shall be adopted under Chapter 119. of the Revised Code. In adopting the rules, the superintendent may consider any recommendations made by the council.

Sec. 5111.242. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of job and family services' initial determination under this section of nursing facilities' rate for tax costs, calendar year 2003;

(b) For the purpose of the department's subsequent determinations under division ~~(D)~~(C) of this section of nursing facilities' rate for tax costs, the calendar year the department selects.

(2) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for tax costs determined under division (C) of this section.

(C) At least once every ten years, the department shall determine the rate for tax costs for each nursing facility. The rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department redetermines it. To determine a nursing facility's rate for tax costs and except as provided in division (D) of this section, the department shall divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year.

(D) If a nursing facility had a credit regarding its real estate taxes reflected on its cost report for calendar year 2003, the department shall determine its rate for tax costs for the period beginning on July 1, 2010, and ending on the first day of the fiscal year for which the department first redetermines all nursing facilities' rate for tax costs under division (C) of this section by dividing the nursing facility's desk-reviewed, actual,

allowable tax costs paid for calendar year 2004 by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during calendar year 2004.

SECTION 2. That existing sections 3923.91 and 5111.242 of the Revised Code are hereby repealed.

SECTION 3. That Section 309.30.25 of Am. Sub. H.B. 1 of the 128th General Assembly be amended to read as follows:

Sec. 309.30.25. FISCAL YEAR 2011 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"Fiscal year 2010 partial rate" means the total rate a provider of a nursing facility is paid for nursing facility services the nursing facility provides on June 30, 2010, less the portion of that total rate that equals the sum of the workforce development incentive payment and consolidated services rate included in the total rate pursuant to divisions (D) and (E) of Section 309.30.20 of ~~this act~~ Am. Sub. H.B. 1 of the 128th General Assembly.

"Franchise permit fee," "inpatient days," "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"Nursing facility services" means nursing facility services covered by the Medicaid program that a nursing facility provides to a resident of the nursing facility who is a Medicaid recipient eligible for Medicaid-covered nursing facility services.

(B) Except as otherwise provided by this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2010, and a valid Medicaid provider agreement during fiscal year 2011 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2011, the rate calculated for the nursing facility under sections 5111.20 to 5111.33 of the Revised Code with the following adjustments:

(1) The cost per case mix-unit calculated under section 5111.231 of the Revised Code, the rate for ancillary and support costs calculated under section 5111.24 of the Revised Code, the rate for tax costs calculated under section 5111.242 of the Revised Code, and the rate for capital costs calculated under section 5111.25 of the Revised Code shall each be adjusted as follows:

(a) Increase the cost and rates so calculated by two per cent;

(b) Increase the cost and rates determined under division (B)(1)(a) of this section by two per cent;

(c) Increase the cost and rates determined under division (B)(1)(b) of this section by one per cent.

(2) The mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, three dollars and three cents per Medicaid day.

(3) The rate, after the adjustments under divisions (B)(1) and (2) of this section are made, shall be further adjusted by a percentage that the Department of Job and Family Services shall determine in consultation with the Ohio Health Care Association; Ohio Academy of Nursing Homes; and the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging. The percentage shall be based on expending an amount equal to the amount determined as follows:

(a) Determine how much of the revenue to be generated under section 3721.51 of the Revised Code for fiscal year 2011 reflects the calculations made under divisions (A)(1) to (4) of section 3721.50 of the Revised Code;

(b) From the amount determined under division (B)(3)(a) of this section, subtract the portion of the amount to be expended under division ~~(E)~~(F) of this section that reflects the part of the calculation made under division ~~(E)~~(F)(2) of this section.

(C) Except as provided in division ~~(F)~~(G) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2011 is more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate, the Department of Job and Family Services shall reduce the nursing facility's rate determined under division (B) of this section for fiscal year 2011 so that the rate is not more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate. Except as provided in division ~~(F)~~(G) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2011 is less than ninety-nine per cent of the nursing facility's fiscal year 2010 partial rate, the Department shall increase the nursing facility's rate determined under division (B) of this section for fiscal year 2011 so that the rate is not less than ninety-nine per cent of the nursing facility's fiscal year 2010 partial rate.

(D) After the adjustments under divisions (B) and (C) of this section are made to a nursing facility's fiscal year 2011 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2011 rate by

the amount of real estate taxes reported on the nursing facility's cost report for calendar year 2004 divided by the number of inpatient days reported on that cost report if the nursing facility had a credit regarding its real estate taxes reflected on its cost report for calendar year 2003.

(E) After the adjustments under divisions (B) ~~and~~, (C), and (D) of this section are made to a nursing facility's fiscal year 2011 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2011 rate by five dollars and seventy cents per Medicaid day. This increase shall be known as the workforce development incentive payment. The total amount of workforce development incentive payments paid to providers of nursing facilities shall be used to improve nursing facilities' employee retention and direct care staffing levels, including by increasing wages paid to nursing facilities' direct care staff. Not later than September 30, 2012, the Department shall submit a report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly detailing the impact that the workforce development incentive payments have on nursing facilities' employee retention, direct care staffing levels, and direct care staff wages.

~~(E)~~(F) After the adjustment under division ~~(D)~~(E) of this section is made to a nursing facility's fiscal year 2011 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2011 rate by the consolidated services rate per Medicaid day. The consolidated services rate shall equal the sum of the following:

(1) Three dollars and ninety-one cents;

(2) The amount calculated under divisions (A)(1) to (4) of section 3721.50 of the Revised Code for fiscal year 2011.

~~(F)~~(G) If the fiscal year 2010 rate for a nursing facility as initially determined under division (B) of ~~section~~ Section 309.30.20 of ~~this act~~ Am. Sub. H.B. 1 of the 128th General Assembly is not subject to an adjustment under division (C) of that section, the nursing facility's fiscal year 2011 rate as initially determined under division (B) of this section shall not be subject to an adjustment under division (C) of this section regardless of whether the nursing facility's fiscal year 2011 rate as initially determined under division (B) of this section would, if not for this division, be subject to the adjustment.

If the fiscal year 2011 rate for a nursing facility as initially determined under division (B) of this section is not subject to an adjustment under division (C) of this section, the nursing facility's rate shall not be subject to an adjustment under that division for the remainder of fiscal year 2011 regardless of any other adjustment made to the nursing facility's fiscal year

2011 rate under sections 5111.20 to 5111.33 of the Revised Code.

~~(G)~~(H) Not later than October 1, 2010, the Department of Job and Family Services shall determine the rates to be paid providers of nursing facilities under this section. Until the rates are determined, the Department shall continue to pay a provider the rate the provider is paid for nursing facility services the provider's nursing facility provides on June 30, 2010. When the Department determines the rates to be paid under this section, the Department shall pay the rates retroactive to July 1, 2010.

~~(H)~~(I) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facility services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

~~(I)~~(J) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2010, and a valid Medicaid provider agreement during fiscal year 2011 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

SECTION 4. That existing Section 309.30.25 of Am. Sub. H.B. 1 of the 128th General Assembly is hereby repealed.

SECTION 5. That Section 5 of Sub. H.B. 125 of the 127th General Assembly, as amended by Sub. H.B. 493 of the 127th General Assembly, be amended to read as follows:

Sec. 5. (A) As used in this section and Section 6 of Sub. H.B. 125 of the 127th General Assembly:

(1) "Most favored nation clause" means a provision in a health care contract that does any of the following:

(a) Prohibits, or grants a contracting entity an option to prohibit, the participating provider from contracting with another contracting entity to provide health care services at a lower price than the payment specified in the contract;

(b) Requires, or grants a contracting entity an option to require, the participating provider to accept a lower payment in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(c) Requires, or grants a contracting entity an option to require,

termination or renegotiation of the existing health care contract in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(d) Requires the participating provider to disclose the participating provider's contractual reimbursement rates with other contracting entities.

(2) "Contracting entity," "health care contract," "health care services," "participating provider," and "provider" have the same meanings as in section 3963.01 of the Revised Code, as enacted by Sub. H.B. 125 of the 127th General Assembly.

(B) With respect to a contracting entity and a provider other than a hospital, no health care contract that includes a most favored nation clause shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly.

(C) With respect to a contracting entity and a hospital, no health care contract that includes a most favored nation clause shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of ~~two~~ three years after the effective date of Sub. H.B. 125 of the 127th General Assembly, subject to extension as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly.

(D) This section does not apply to and does not prohibit the continued use of a most favored nation clause in a health care contract that is between a contracting entity and a hospital and that is in existence on the effective date of Sub. H.B. 125 of the 127th General Assembly even if the health care contract is materially amended with respect to any provision of the health care contract other than the most favored nation clause during the two-year period specified in this section or during any extended period of time as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly.

SECTION 6. That existing Section 5 of Sub. H.B. 125 of the 127th General Assembly, as amended by Sub. H.B. 493 of the 127th General Assembly, is hereby repealed.

SECTION 7. Sections 1 and 2 of this act, except for the amendments to section 5111.242 of the Revised Code, shall take effect on the ninetieth day after the effective date of this act.

SECTION 8. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that it establishes continuity for existing most favored nation clauses in health care contracts and avoids the administrative expense of recalculating a nursing facility's Medicaid reimbursement rate for tax costs after fiscal year 2011 begins. Therefore, this act shall go into immediate effect.

_____

Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

_____

Secretary of State.

File No. _____ Effective Date _____