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Representatives Brown, Ginter

Cosponsors: Representatives Becker, Kuhns, Kraus, Lepore-Hagan, Huffman, Barnes, Bishoff, Duffey, Ramos, Anielski, Antonio, Baker, Blessing, Boyce, Boyd, Buchy, Burkley, Celebrezze, Clyde, Conditt, Craig, Derickson, Dever, Dovilla, Driehaus, Fedor, Green, Hackett, Hall, Hambley, Hayes, Henne, Hill, Howse, Johnson, G., Kunze, Landis, Leland, Maag, Manning, McClain, O'Brien, M., Patterson, Pelanda, Reece, Rogers, Romanchuk, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sears, Sheehy, Slaby, Slesnick, Smith, K., Smith, R., Sprague, Stinziano, Strahorn, Sweeney, Sykes, Terhar, Young, Speaker Rosenberger

Senators Tavares, Williams

A BILL

To amend sections 1739.05, 3719.04, 3719.07, 3719.121, 3719.21, 4729.281, 4729.39, 4729.571, 4730.11, 4730.49, and 5167.12 and to enact sections 1751.68, 3923.602, 4729.20, 4729.561, and 5164.7511 of the Revised Code regarding insurance and Medicaid coverage of medication synchronization, professional discipline for actions involving dangerous drugs, consult agreements between pharmacists and physicians, pharmacists dispensing or selling drugs without a prescription, prescriptive authority of physician assistants, and acceptance of a certificate of need application for a new nursing home.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1739.05, 3719.04, 3719.07, 3719.121, 3719.21, 4729.281, 4729.39, 4729.571, 4730.11, 4730.49, and 5167.12 be amended and sections 1751.68, 3923.602, 4729.20, 4729.561, and 5164.7511 of the Revised Code be enacted to read as follows:

Sec. 1739.05. (A) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A)(1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.85, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell

or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees, or are eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

Sec. 1751.68. (A) As used in this section:

(1) "Cost-sharing" means the cost to an enrollee under an individual or group health insuring corporation policy, contract, or agreement according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy, contract, or agreement.

(2) "Drug" has the same meaning as in section 4729.01 of the Revised Code.

(3) "Medication synchronization" means a pharmacy service that synchronizes the filling or refilling of prescriptions in a manner that allows the dispensed drugs to be obtained on the same date each month.

(4) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(5) "Prescription" means a written, electronic, or oral order issued by a prescriber for drugs or combinations or mixtures of drugs to be used by a particular individual.

(B) Notwithstanding section 3901.71 of the Revised Code,

each health insuring corporation policy, contract, or agreement that provides prescription drug coverage shall provide for medication synchronization for an enrollee if all of the following conditions are met:

(1) The enrollee elects to participate in medication synchronization;

(2) The enrollee, the prescriber, and a pharmacist at a network pharmacy agree that medication synchronization is in the best interest of the enrollee;

(3) The prescription drug to be included in the medication synchronization meets the requirements of division (C) of this section.

(C) To be eligible for inclusion in medication synchronization for an enrollee, a prescription drug must meet all of the following requirements:

(1) Be covered by the policy, contract, or agreement;

(2) Be prescribed for the treatment and management of a chronic disease or condition and be subject to refills;

(3) Satisfy all relevant prior authorization criteria;

(4) Not have quantity limits, dose optimization criteria, or other requirements that would be violated if synchronized;

(5) Not have special handling or sourcing needs, as determined by the policy, contract, or agreement, that require a single, designated pharmacy to fill or refill the prescription;

(6) Be formulated so that the quantity or amount dispensed can be effectively divided in order to achieve synchronization;

(7) Not be a schedule II controlled substance, opiate, or

benzodiazepine, as those terms are defined in section 3719.01 of the Revised Code.

(D)(1) To provide for medication synchronization under division (B) of this section, a policy, contract, or agreement shall authorize coverage of a prescription drug subject to medication synchronization when the drug is dispensed in a quantity or amount that is less than a thirty-day supply.

(2) The requirement of division (D)(1) of this section applies only once for each prescription drug subject to medication synchronization for the same enrollee, except when either of the following occurs:

(a) The prescriber changes the dosage or frequency of administration of the prescription drug subject to medication synchronization.

(b) The prescriber prescribes a different drug.

(E)(1) A policy, contract, or agreement that provides for medication synchronization under division (B) of this section shall permit and apply a prorated daily cost-sharing rate for a supply of a prescription drug subject to medication synchronization that is dispensed at a network pharmacy.

(2) Division (E)(1) of this section does not require a policy, contract, or agreement to waive any cost-sharing requirement in its entirety.

(F) A policy, contract, or agreement that provides for medication synchronization under division (B) of this section shall not use payment structures that incorporate dispensing fees that are determined by calculating the days' supply of drugs dispensed. Dispensing fees shall be based exclusively on the total number of prescriptions that are filled or refilled.

(G) This section does not require a health insuring corporation to provide to a network pharmacy or a pharmacist at a network pharmacy any monetary or other financial incentive for the purpose of encouraging the pharmacy or pharmacist to recommend medication synchronization to an enrollee.

Sec. 3719.04. (A) A licensed manufacturer or wholesaler of controlled substances may sell at wholesale controlled substances to any of the following persons and subject to the following conditions:

(1) To a licensed manufacturer or wholesaler of controlled substances, or a terminal distributor of dangerous drugs having a category III license;

(2) To a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing controlled substances by reason of ~~his~~ official duties;

(3) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board the ship or aircraft, when not in port; provided such controlled substances shall be sold to the master of the ship or person in charge of the aircraft only in pursuance of a special official written order approved by a commissioned medical officer or acting assistant surgeon of the United States public health service;

(4) To a person in a foreign country, if the federal drug abuse control laws are complied with.

(B) An official written order for any schedule II controlled substances shall be signed in triplicate by the

person giving the order or by ~~his~~ the person's authorized agent. The original shall be presented to the person who sells or dispenses the schedule II controlled substances named in the order and, if that person accepts the order, each party to the transaction shall preserve ~~his~~ the party's copy of the order for a period of ~~two~~ three years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of Chapter 3719. of the Revised Code. Compliance with the federal drug abuse control laws, respecting the requirements governing the use of a special official written order constitutes compliance with this division.

Sec. 3719.07. (A) As used in this section, "description" means the dosage form, strength, and quantity, and the brand name, if any, or the generic name, of a drug or controlled substance.

(B)(1) Every licensed health professional authorized to prescribe drugs shall keep a record of all controlled substances received and a record of all controlled substances administered, dispensed, or used other than by prescription. Every other person, except a pharmacist, manufacturer, or wholesaler, who is authorized to purchase and use controlled substances shall keep a record of all controlled substances purchased and used other than by prescription. The records shall be kept in accordance with division (C)(1) of this section.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared by them, and of all controlled substances received or sold by them. The records shall be kept in accordance with division (C)(2) of this section.

(3) Every category III terminal distributor of dangerous drugs shall keep records of all controlled substances received or sold. The records shall be kept in accordance with division (C)(3) of this section.

(4) Every person who sells or purchases for resale schedule V controlled substances exempted by section 3719.15 of the Revised Code shall keep a record showing the quantities and kinds thereof received or sold. The records shall be kept in accordance with divisions (C)(1), (2), and (3) of this section.

(C)(1) The records required by divisions (B)(1) and (4) of this section shall contain the following:

(a) The description of all controlled substances received, the name and address of the person from whom received, and the date of receipt;

(b) The description of controlled substances administered, dispensed, purchased, sold, or used; the date of administering, dispensing, purchasing, selling, or using; the name and address of the person to whom, or for whose use, or the owner and species of the animal for which the controlled substance was administered, dispensed, purchased, sold, or used.

(2) The records required by divisions (B)(2) and (4) of this section shall contain the following:

(a) The description of all controlled substances produced or prepared, the name and address of the person from whom received, and the date of receipt;

(b) The description of controlled substances sold, the name and address of each person to whom a controlled substance is sold, the amount of the controlled substance sold to each person, and the date it was sold.

(3) The records required by divisions (B)(3) and (4) of this section shall contain the following:

(a) The description of controlled substances received, the name and address of the person from whom controlled substances are received, and the date of receipt;

(b) The name and place of residence of each person to whom controlled substances, including those otherwise exempted by section 3719.15 of the Revised Code, are sold, the description of the controlled substances sold to each person, and the date the controlled substances are sold to each person.

(D) Every record required by this section shall be kept for a period of ~~two~~ three years.

The keeping of a record required by or under the federal drug abuse control laws, containing substantially the same information as specified in this section, constitutes compliance with this section.

Every person who purchases for resale or who sells controlled substance preparations exempted by section 3719.15 of the Revised Code shall keep the record required by or under the federal drug abuse control laws.

Sec. 3719.121. (A) Except as otherwise provided in section 4723.28, 4723.35, 4730.25, 4731.22, 4734.39, or 4734.41 of the Revised Code, the license, certificate, or registration of any dentist, chiropractor, physician, podiatrist, registered nurse, licensed practical nurse, physician assistant, pharmacist, pharmacy intern, optometrist, or veterinarian who is or becomes addicted to the use of controlled substances shall be suspended by the board that authorized the person's license, certificate, or registration until the person offers satisfactory proof to

the board that the person no longer is addicted to the use of controlled substances.

(B) If the board under which a person has been issued a license, certificate, or evidence of registration determines that there is clear and convincing evidence that continuation of the person's professional practice or method of administering, prescribing, dispensing, or personally furnishing controlled substances or other dangerous drugs presents a danger of immediate and serious harm to others, the board may suspend the person's license, certificate, or registration without a hearing. Except as otherwise provided in sections 4715.30, 4723.281, 4729.16, 4730.25, 4731.22, and 4734.36 of the Revised Code, the board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing, the suspension shall be void on the ninety-first day after the hearing.

(C) On receiving notification pursuant to section 2929.42 or 3719.12 of the Revised Code, the board under which a person has been issued a license, certificate, or evidence of registration immediately shall suspend the license, certificate, or registration of that person on a plea of guilty to, a finding by a jury or court of the person's guilt of, or conviction of a felony drug abuse offense; a finding by a court of the person's eligibility for intervention in lieu of conviction; a plea of guilty to, or a finding by a jury or court of the person's guilt of, or the person's conviction of an offense in another jurisdiction that is essentially the same as a felony drug abuse

offense; or a finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction. The board shall notify the holder of the license, certificate, or registration of the suspension, which shall remain in effect until the board holds an adjudicatory hearing under Chapter 119. of the Revised Code.

Sec. 3719.21. Except as provided in division (C) of section 2923.42, division (B) of section 2923.44, divisions (D)(1), (F), and (H) of section 2925.03, division (D)(1) of section 2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, division ~~(F)~~ (E) of section 2925.13, division (F) of section 2925.36, division (D) of section 2925.22, division (H) of section 2925.23, division (M) of section 2925.37, division (B) of section 2925.42, division (B) of section 2929.18, division (D) of section 3719.99, division (B)(1) of section 4729.65, division (E)(3) of section 4729.99, and division (I)(4) of section 4729.99 of the Revised Code, the clerk of the court shall pay all fines or forfeited bail assessed and collected under prosecutions or prosecutions commenced for violations of this chapter, section 2923.42 of the Revised Code, or Chapter 2925. of the Revised Code, within thirty days, to the executive director of the state board of pharmacy, and the executive director shall deposit the fines into the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 3923.602. (A) As used in this section:

(1) "Cost-sharing" means the cost to an insured under a policy of sickness and accident insurance or a public employee benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy or plan.

(2) "Drug" has the same meaning as in section 4729.01 of the Revised Code.

(3) "Medication synchronization" means a pharmacy service that synchronizes the filling or refilling of prescriptions in a manner that allows the dispensed drugs to be obtained on the same date each month.

(4) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(5) "Prescription" means a written, electronic, or oral order issued by a prescriber for drugs or combinations or mixtures of drugs to be used by a particular individual.

(B) Notwithstanding section 3901.71 of the Revised Code, each policy of sickness and accident insurance that provides prescription drug coverage and each public employee benefit plan that provides prescription drug coverage shall provide for medication synchronization for an insured if all of the following conditions are met:

(1) The insured elects to participate in medication synchronization;

(2) The insured, the prescriber, and a pharmacist at a network pharmacy agree that medication synchronization is in the best interest of the insured;

(3) The prescription drug to be included in the medication synchronization meets the requirements of division (C) of this section.

(C) To be eligible for inclusion in medication synchronization for an insured, a prescription drug must meet all of the following requirements:

(1) Be covered by the policy or plan;

(2) Be prescribed for the treatment and management of a chronic disease or condition and be subject to refills;

(3) Satisfy all relevant prior authorization criteria;

(4) Not have quantity limits, dose optimization criteria, or other requirements that would be violated if synchronized;

(5) Not have special handling or sourcing needs, as determined by the policy or plan, that require a single, designated pharmacy to fill or refill the prescription;

(6) Be formulated so that the quantity or amount dispensed can be effectively divided in order to achieve synchronization;

(7) Not be a schedule II controlled substance, opiate, or benzodiazepine, as those terms are defined in section 3719.01 of the Revised Code.

(D)(1) To provide for medication synchronization under division (B) of this section, a policy or plan shall authorize coverage of a prescription drug subject to medication synchronization when the drug is dispensed in a quantity or amount that is less than a thirty-day supply.

(2) The requirement of division (D)(1) of this section applies only once for each prescription drug subject to medication synchronization for the same insured, except when either of the following occurs:

(a) The prescriber changes the dosage or frequency of administration of the prescription drug subject to medication synchronization.

(b) The prescriber prescribes a different drug.

(E)(1) A policy or plan that provides for medication synchronization under division (B) of this section shall permit and apply a prorated daily cost-sharing rate for a supply of a prescription drug subject to medication synchronization that is dispensed at a network pharmacy.

(2) Division (E)(1) of this section does not require a policy or plan to waive any cost-sharing requirements in its entirety.

(F) A policy or plan that provides for medication synchronization under division (B) of this section shall not use payment structures that incorporate dispensing fees that are determined by calculating the days' supply of drugs dispensed. Dispensing fees shall be based exclusively on the total number of prescriptions that are filled or refilled.

(G) This section does not require a sickness and accident insurer or public employee benefit plan to provide to a network pharmacy or a pharmacist at a network pharmacy any monetary or other financial incentive for the purpose of encouraging the pharmacy or pharmacist to recommend medication synchronization to an insured.

Sec. 4729.20. As used in this section, "medication synchronization" means a pharmacy service that synchronizes the filling or refilling of prescriptions in a manner that allows the dispensed drugs to be obtained on the same date each month.

A pharmacist may dispense a drug in a manner that varies from the prescription for the drug by dispensing a quantity or amount of the drug that is less than a thirty-day supply, if the pharmacist's action is taken solely for the purpose of medication synchronization pursuant to section 1751.68,

3923.602, 5164.7511, or 5167.12 of the Revised Code.

Sec. 4729.281. (A) A pharmacist may dispense or sell a dangerous drug, other than a schedule II controlled substance as defined in section 3719.01 of the Revised Code, without a written or oral prescription from a licensed health professional authorized to prescribe drugs if all of the following conditions are met:

(1) The pharmacy at which the pharmacist works has a record of a prescription for the drug in the name of the patient who is requesting it, but the prescription does not provide for a refill or the time permitted by rules adopted by the state board of pharmacy for providing refills has elapsed.

(2) The pharmacist is unable to obtain authorization to refill the prescription from the health care professional who issued the prescription or another health professional responsible for the patient's care.

(3) In the exercise of the pharmacist's professional judgment:

(a) The drug is essential to sustain the life of the patient or continue therapy for a chronic condition of the patient.

(b) Failure to dispense or sell the drug to the patient could result in harm to the health of the patient.

(4)(a) Except as provided in division (A)(4)(b) of this section, the amount of the drug that is dispensed or sold under this section does not exceed a seventy-two-hour supply as provided in the prescription.

(b)(i) Subject to division (A)(4)(b)(ii) of this section,

if the drug dispensed or sold ~~or dispensed~~ under this section is not a controlled substance and the patient has been on a consistent drug therapy as demonstrated by records maintained by a pharmacy, the amount of the drug dispensed or sold does not exceed a thirty-day supply as provided in the prescription or, if the standard unit of dispensing for the drug exceeds a thirty-day supply, the amount of the drug dispensed or sold does not exceed the standard unit of dispensing. The pharmacist shall exercise professional judgment in determining the amount of the drug to be dispensed or sold.

(ii) A pharmacist shall not dispense or sell a particular drug to the same patient in an amount described in division (A)(4)(b)(i) of this section more than once in any twelve-month period.

(B) A pharmacist who dispenses or sells a drug under this section shall do all of the following:

(1) For one year after the date of dispensing or sale, maintain a record in accordance with this chapter of the drug dispensed or sold, including the name and address of the patient and the individual receiving the drug, if the individual receiving the drug is not the patient, the amount dispensed or sold, and the original prescription number;

(2) Notify the health professional who issued the prescription described in division (A)(1) of this section or another health professional responsible for the patient's care not later than seventy-two hours after the drug is sold or dispensed;

(3) If applicable, obtain authorization for additional dispensing from one of the health professionals described in

division (B)(2) of this section.

(C) A pharmacist who dispenses or sells a drug under this section may do so once for each prescription described in division (A)(1) of this section.

Sec. 4729.39. (A) One or more pharmacists may enter into a consult agreement with one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery if all of the following conditions are met:

(1) Each physician has an ongoing physician-patient relationship with each patient whose drug therapy is being managed.

(2) The diagnosis for which each patient has been prescribed drug therapy is within the scope of each physician's practice.

(3) Each pharmacist has training and experience related to the particular diagnosis for which drug therapy is prescribed.

(B) With respect to consult agreements, all of the following apply:

(1) Under a consult agreement, a pharmacist is authorized to do both of the following, but only to the extent specified in the agreement, this section, and the rules adopted under this section:

(a) Manage drug therapy for treatment of specified diagnoses or diseases for each patient who is subject to the agreement, including all of the following:

(i) Changing the duration of treatment for the current drug therapy;

(ii) Adjusting a drug's strength, dose, dosage form, frequency~~,~~ of administration, or route of administration;

(iii) Discontinuing the use of a drug;

(iv) Administering a drug;

(v) Notwithstanding the definition of "licensed health professional authorized to prescribe drugs" in section 4729.01 of the Revised Code, adding a drug to the patient's drug therapy.

(b)(i) Order blood and urine tests and~~, in accordance with practice protocols that are part of the consult agreement,~~ evaluate results related to the drug therapy being managed.

(ii) A pharmacist's authority to evaluate blood and urine tests under division (B)(1)(b)(i) of this section does not authorize the pharmacist to make a diagnosis.

(2)(a) A consult agreement, or the portion of the agreement that applies to a particular patient, may be terminated by any of the following:

(i) A pharmacist who entered into the agreement;

(ii) A physician who entered into the agreement;

(iii) A patient whose drug therapy is being managed;

(iv) An individual who consented to the treatment on behalf of a patient or an individual authorized to act on behalf of a patient.

(b) The pharmacist or physician who receives the notice of a patient's termination of the agreement shall provide written notice to every other pharmacist or physician who is a party to the agreement. A pharmacist or physician who terminates a

consult agreement with regard to one or more patients shall provide written notice to all other pharmacists and physicians who entered into the agreement and to each individual who consented to treatment under the agreement. The termination of a consult agreement with regard to one or more patients shall be recorded by the pharmacist and physician in the medical records of each patient to whom the termination applies.

(3) A consult agreement shall be made in writing and shall include all of the following:

(a) The diagnoses and diseases being managed under the agreement, including whether each disease is primary or comorbid;

(b) ~~Practice protocols~~A description of the drugs or drug categories the agreement involves;

(c) A description of the ~~drug therapy management protocols~~ procedures, decision criteria, and plan the pharmacist is to follow in acting under a consult agreement;

(d) A description of how the pharmacist is to comply with divisions (B)(5) and (6) of this section.

(4) The content of a consult agreement shall be communicated to each patient whose drug therapy is managed under the agreement.

(5) A pharmacist acting under a consult agreement shall maintain a record of each action taken for each patient whose drug therapy is managed under the agreement.

(6) Communication between a pharmacist and physician acting under a consult agreement shall take place at regular intervals specified by the primary physician acting under the

agreement. The agreement may include a requirement that a pharmacist send a consult report to each consulting physician.

(7) A consult agreement is effective for two years and may be renewed if the conditions specified in division (A) of this section are met.

(8) A consult agreement does not permit a pharmacist to manage drug therapy prescribed by a physician who has not entered into the agreement.

(C) The state board of pharmacy, in consultation with the state medical board, shall adopt rules to be followed by pharmacists, and the state medical board, in consultation with the state board of pharmacy, shall adopt rules to be followed by physicians, that establish standards and procedures for entering into a consult agreement and managing a patient's drug therapy under a consult agreement. The boards shall specify in the rules any categories of drugs or types of diseases for which a consult agreement may not be established. Either board may adopt any other rules it considers necessary for the implementation and administration of this section. All rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

(D)(1) Subject to division (D)(2) of this section, both of the following apply:

(a) A pharmacist <u>acting in accordance with a consult agreement regarding a physician's change in a drug for a patient whose drug therapy the pharmacist is managing under the agreement</u> is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from ~~a physician's~~ <u>the</u> change ~~in a drug for a patient~~

~~whose drug therapy the pharmacist is managing under a consult agreement~~.

(b) A physician acting in accordance with a consult agreement regarding a pharmacist's change in a drug for a patient whose drug therapy the pharmacist is managing under a consult agreement is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from ~~a pharmacist's~~ the change ~~in a drug for a patient whose drug therapy the pharmacist is managing under a consult agreement~~ unless the physician authorized the specific change ~~in the drug~~.

(2) Division (D)(1) of this section does not limit a physician's or pharmacist's liability in damages in a tort or other civil action for injury or loss to person or property allegedly arising from actions that are not related to the physician's or pharmacist's change in a drug for a patient whose drug therapy is being managed under a consult agreement.

Sec. 4729.561. If the state board of pharmacy determines that there is clear and convincing evidence that the method used by a registered wholesale distributor of dangerous drugs to distribute dangerous drugs presents a danger of immediate and serious harm to others, the board may suspend without a hearing the wholesaler distributor's registration certificate issued pursuant to section 4729.52 of the Revised Code. The board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing, the suspension shall be void on the ninety-

first day after the suspension.

Sec. 4729.571. If the state board of pharmacy determines that there is clear and convincing evidence that the method used by a terminal distributor of dangerous drugs to distribute ~~controlled substances~~ or prescribe dangerous drugs presents a danger of immediate and serious harm to others, the board may suspend the terminal distributor's license without a hearing. The board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing, the suspension shall be void on the ninety-first day after the suspension.

If the terminal distributor holds a license with a pain management clinic classification issued under section 4729.552 of the Revised Code and the person holding the license also holds a certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, prior to suspending the license without a hearing, the board shall consult with the secretary of the state medical board or, if the secretary is unavailable, another physician member of the board.

Sec. 4730.11. (A) To be eligible to receive a license to practice as a physician assistant, all of the following apply to an applicant:

(1) The applicant shall be at least eighteen years of age.

(2) The applicant shall be of good moral character.

(3) The applicant shall hold current certification by the

national commission on certification of physician assistants or a successor organization that is recognized by the state medical board.

(4) The applicant shall meet either of the following requirements:

(a) The educational requirements specified in division (B)(1) or (2) of this section;

(b) The educational or other applicable requirements specified in division (C)(1), (2), or (3) of this section.

(B) For purposes of division (A)(4)(a) of this section, an applicant shall meet either of the following educational requirements:

(1) The applicant shall hold a master's or higher degree obtained from a program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board.

(2) The applicant shall hold both of the following degrees:

(a) A degree other than a master's or higher degree obtained from a program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board;

(b) A master's or higher degree in a course of study with clinical relevance to the practice of physician assistants and obtained from a program accredited by a regional or specialized and professional accrediting agency recognized by the council for higher education accreditation.

(C) For purposes of division (A)(4)(b) of this section, an

applicant shall present evidence satisfactory to the board of meeting one of the following requirements in lieu of meeting the educational requirements specified in division (B)(1) or (2) of this section:

(1) The applicant shall hold a current, valid license or other form of authority to practice as a physician assistant issued by another jurisdiction and have been in active practice in any jurisdiction throughout the three-year period immediately preceding the date of application.

(2) The applicant shall hold a degree obtained as a result of being enrolled on January 1, 2008, in a program in this state that was accredited by the accreditation review commission on education for the physician assistant but did not grant a master's or higher degree to individuals enrolled in the program on that date, and completing the program on or before December 31, 2009.

(3) The applicant shall hold a degree obtained from a program accredited by the accreditation review commission on education for the physician assistant and meet either of the following experience requirements:

(a) Have experience practicing as a physician assistant for at least three consecutive years while on active duty, with evidence of service under honorable conditions, in any of the armed forces of the United States or the national guard of any state, including any experience attained while practicing as a physician assistant at a health care facility or clinic operated by the United States department of veterans affairs;

(b) Have experience practicing as a physician assistant for at least three consecutive years while on active duty in the

United States public health service commissioned corps.

(D) Unless the applicant had prescriptive authority while practicing as a physician assistant in another jurisdiction, in the military, or in the public health service, the license issued to an applicant who does not hold a master's or higher degree described in division (B) of this section does not authorize the holder to exercise physician-delegated prescriptive authority and the state medical board shall not issue a prescriber number.

(E)(1) This section does not require an individual to obtain a master's or higher degree as a condition of retaining or renewing a license to practice as a physician assistant if the individual received the license without holding a master's or higher degree as provided in either of the following:

(a) Before the educational requirements specified in division (B)(1) or (2) of this section became effective January 1, 2008;

(b) By meeting the educational or other applicable requirements specified in division (C)(1), (2), or (3) of this section.

(2) A license described in division (E)(1) of this section authorizes the license holder to exercise physician-delegated prescriptive authority if, on ~~the effective date of this amendment~~ October 15, 2015, the license holder held a valid certificate to prescribe issued under former section 4730.44 of the Revised Code, as it existed immediately prior to ~~the effective date of this amendment~~ October 15, 2015.

(3) On application of an individual who received a license without having first obtained a master's or higher degree and is

not authorized under division (E)(2) of this section to exercise physician-delegated prescriptive authority, the board shall grant the individual the authority to exercise physician-delegated prescriptive authority if the individual meets either of the following requirements:

(a) The individual provides evidence satisfactory to the board of having obtained a master's or higher degree from either of the following:

~~(a)~~ (i) A program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board;

~~(b)~~ (ii) A program accredited by a regional or specialized and professional accrediting agency recognized by the council for higher education accreditation, if the degree is in a course of study with clinical relevance to the practice of physician assistants.

(b) The individual meets the requirements specified in division (C)(1) or (3) of this section and had prescriptive authority while practicing as a physician assistant in another jurisdiction, in any of the armed forces of the United States or the national guard of any state, or in the United States public health service commissioned corps.

Sec. 4730.49. (A) To be eligible for renewal of a license to practice as a physician assistant, an applicant who has been granted physician-delegated prescriptive authority is subject to both of the following:

(1) The applicant shall complete every two years at least twelve hours of continuing education in pharmacology ~~from an accredited institution recognized~~ obtained through a program or

course approved by the state medical board or a person the board has authorized to approve continuing pharmacology education programs and courses. Except as provided in division (B) of this section and in section 5903.12 of the Revised Code, the continuing education shall be completed not later than the thirty-first day of January of each even-numbered year.

(2)(a) Except as provided in division (A)(2)(b) of this section, in the case of an applicant who prescribes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the applicant shall certify to the board whether the applicant has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (A)(2)(a) of this section does not apply if any of the following is the case:

(i) The state board of pharmacy notifies the state medical board pursuant to section 4729.861 of the Revised Code that the applicant has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The applicant does not practice as a physician assistant in this state.

(c) If an applicant certifies to the state medical board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the applicant has not been granted access, the board may take action under section 4730.25 of the Revised Code.

(B) The state medical board shall provide for pro rata

reductions by month of the number of hours of continuing education in pharmacology that is required to be completed for physician assistants who are in their first licensure period after completing the period of supervision required under section 4730.44 of the Revised Code, who have been disabled due to illness or accident, or who have been absent from the country. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, as necessary to implement this division.

(C) The continuing education required by this section is in addition to the continuing education required under section 4730.14 of the Revised Code.

(D) If the board chooses to authorize persons to approve continuing pharmacology education programs and courses, it shall establish standards for granting that authority and grant the authority in accordance with the standards.

Sec. 5164.7511. (A) As used in this section:

(1) "Cost-sharing" means any cost-sharing requirements instituted for the medicaid program under section 5162.20 of the Revised Code.

(2) "Medication synchronization" means a pharmacy service that synchronizes the filling or refilling of prescriptions in a manner that allows the dispensed drugs to be obtained on the same date each month.

(3) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B) With respect to coverage of prescribed drugs, the medicaid program shall provide for medication synchronization for a medicaid recipient if all of the following conditions are

met:

(1) The recipient elects to participate in medication synchronization.

(2) The recipient, the prescriber, and a pharmacist at a pharmacy participating in the medicaid program agree that medication synchronization is in the best interest of the recipient.

(3) The prescribed drug to be included in the medication synchronization meets the requirements of division (C) of this section.

(C) To be eligible for inclusion in medication synchronization for a medicaid recipient, a prescribed drug must meet all of the following requirements:

(1) Be covered by the medicaid program;

(2) Be prescribed for the treatment and management of a chronic disease or condition and be subject to refills;

(3) Satisfy all relevant prior authorization criteria;

(4) Not have quantity limits, dose optimization criteria, or other requirements that would be violated if synchronized;

(5) Not have special handling or sourcing needs, as determined by the medicaid program, that require a single, designated pharmacy to fill or refill the prescription;

(6) Be formulated so that the quantity or amount dispensed can be effectively divided in order to achieve synchronization;

(7) Not be a schedule II controlled substance, opiate, or benzodiazepine, as those terms are defined in section 3719.01 of the Revised Code.

(D)(1) To provide for medication synchronization under division (B) of this section, the medicaid program shall authorize coverage of a prescribed drug subject to medication synchronization when the drug is dispensed in a quantity or amount that is less than a thirty-day supply.

(2) The requirement of division (D)(1) of this section applies only once for each prescribed drug subject to medication synchronization for the same medicaid recipient, except when either of the following occurs:

(a) The prescriber changes the dosage or frequency of administration of the prescribed drug subject to medication synchronization.

(b) The prescriber prescribes a different drug.

(E)(1) In providing for medication synchronization under division (B) of this section, the medicaid program shall apply a prorated daily cost-sharing rate for a supply of a prescribed drug subject to medication synchronization that is dispensed at a pharmacy participating in the program.

(2) Division (E)(1) of this section does not require the medicaid program to waive any cost-sharing requirement in its entirety.

(F) In providing for medication synchronization under division (B) of this section, the medicaid program shall not use payment structures that incorporate dispensing fees that are determined by calculating the days' supply of drugs dispensed. Dispensing fees shall be based exclusively on the total number of prescriptions that are filled or refilled.

(G) This section does not require the medicaid program to provide to a pharmacy participating in the program or a

pharmacist at a participating pharmacy any monetary or other financial incentive for the purpose of encouraging the pharmacy or pharmacist to recommend medication synchronization to a medicaid recipient.

Sec. 5167.12. (A) When contracting under section 5167.10 of the Revised Code with a managed care organization that is a health insuring corporation, the department of medicaid shall require the health insuring corporation to provide coverage of prescribed drugs for medicaid recipients enrolled in the health insuring corporation. In providing the required coverage, the health insuring corporation may, subject to the department's approval and the limitations specified in division (B) of this section, use strategies for the management of drug utilization.

(B) The department shall not permit a health insuring corporation to impose a prior authorization requirement in the case of a drug to which all of the following apply:

(1) The drug is an antidepressant or antipsychotic.

(2) The drug is administered or dispensed in a standard tablet or capsule form, except that in the case of an antipsychotic, the drug also may be administered or dispensed in a long-acting injectable form.

(3) The drug is prescribed by either of the following:

(a) A physician whom the health insuring corporation, pursuant to division (C) of section 5167.10 of the Revised Code, has credentialed to provide care as a psychiatrist;

(b) A psychiatrist practicing at a community mental health services provider certified by the department of mental health and addiction services under section 5119.36 of the Revised Code.

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration.

(C) The department shall permit a health insuring corporation to develop and implement a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription.

(D) The department shall require a health insuring corporation to comply with section 5164.7511 of the Revised Code with respect to medication synchronization.

Section 2. That existing sections 1739.05, 3719.04, 3719.07, 3719.121, 3719.21, 4729.281, 4729.39, 4729.571, 4730.11, 4730.49, and 5167.12 of the Revised Code are hereby repealed.

Section 3. Sections 1739.05 and 1751.68 of the Revised Code, as amended or enacted by this act, apply only to arrangements, policies, contracts, and agreements that are created, delivered, issued for delivery, or renewed in this state on or after January 1, 2017. Section 3923.602 of the Revised Code, as enacted by this act, applies only to policies of sickness and accident insurance delivered, issued for delivery, or renewed in this state and public employee benefit plans that are established or modified in this state on or after January 1, 2017. Sections 5164.7511 and 5167.12 of the Revised Code, as amended or enacted by this act, apply to the Medicaid program on or after January 1, 2017.

Section 4. (A) As used in this section:

(1) "Nursing home" and "residential care facility" have

the same meanings as in section 3721.01 of the Revised Code.

(2) "Population" means that shown by the 2010 regular federal census.

(B) The Director of Health shall accept for review under section 3702.52 of the Revised Code one certificate of need application for the establishment, development, and construction of a new nursing home if all of the following conditions are met:

(1) The application is submitted to the Director not later than one hundred eighty days after the effective date of this section.

(2) The new nursing home is to be located in a county that has a population of at least forty thousand and not more than forty-five thousand persons.

(3) The new nursing home is to be located in either of the following:

(a) A distinct part of a building in which an existing residential care facility is operated, including a distinct part that is an addition to the building;

(b) A separate building located on the same property as an existing residential care facility.

(4) The new nursing home is to have not more than twenty beds to which all of the following apply:

(a) All of the beds are transferred from an existing nursing home located in a county that has a population of at least one hundred thirty-five thousand and not more than one hundred forty thousand persons and is contiguous to the county in which the new nursing home is to be located;

(b) All of the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(c) All of the beds are proposed to be certified for participation in the Medicare program;

(d) None of the beds are proposed to be certified for participation in the Medicaid program.

(5) After the proposed transfer of the beds, there still will be existing nursing home beds remaining in the county from which the beds are transferred.

(C) In reviewing a certificate of need application accepted under this section, the Director shall neither deny an application on the grounds that the new nursing home is to have less than fifty beds nor require the applicant to obtain a waiver of the minimum fifty-bed requirement established by division (J) of rule 3701-12-23 of the Administrative Code.