



The

**OHIO VACCINATION AND
HEALTHCARE FREEDOM
ACT**

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Ohio Vaccination and Healthcare Freedom Act

BILL ANALYSIS

SYNOPSIS

This bill is a proposed sub-bill (amendment) to replace the language in HB435.

This bill acknowledges that business owners have rights and freedoms but that they can also expose the State of Ohio to unnecessary risk and thereby burden taxpayers with their decisions. These risks, especially when they broach individual freedoms, and when they become an enormity, must be quantified and passed on to the business owners that choose to participate in such risks. This bill imposes personal responsibility on business owners so that they can reap the rewards of their decision or face the consequences.

Establishing a vaccine mandate, especially for a vaccine with no long-term testing, could risk exposing the state to the health costs associated with long-term adverse side effects. The decision to mandate experimental or vaccines with no long-term testing can also risk causing massive layoffs and unemployment - thereby costing the State through unemployment and welfare programs.

This bill establishes:

- Bans the mandating of any experimental vaccine.
- Imposes significant insurance requirements on businesses and schools that seek to mandate vaccines that have not undergone any long-term testing.

- Does not interfere with a business owner's right to mandate that their employees receive vaccines that have undergone long-term testing.
- Sets a policy for the State of honoring proof of immunity for any vaccine mandate if any exist.
- A definition of what constitutes a public health emergency.
- Classifies public health emergencies into three different levels and limits the response and actions of the government to be appropriate so that legislators restrain themselves instead of acting out of fear during an emergency.
- Imposes a wide application of exemptions (exceptions) during different levels of public health emergencies.
- Places vaccines into three different categories based on their degree of risk.
- Restores the autonomy of local health districts with popularly elected health commissioners and does away with local health advisory boards.
- Allows local health districts to become a check on State power during an emergency.
- Repeals language that makes local health districts subservient to the State Health Department and thereby the executive branch. Restore home rule.
- More succinctly clarifies that during a public health emergency that the executive branch has no power to suspend law - including due process and the equal application of the law.

THE CONSEQUENCES FOR IRRESPONSIBLY CREATING A PANIC BY THE EXECUTIVE BRANCH

Compared to the [Spanish flu or the Bubonic plague](#) the COVID-19 public health emergency is **mild**. Though COVID-19 itself is far from the worst pandemic that ever experienced, our overreaction to the COVID-19 emergency sets a precedent of disaster for any future pandemic if and when one should occur.

The Supreme Court has ruled that: under the tenth amendment of the Constitution of the United States, **States have [emergency powers](#) that can suspend Constitutional law** in order to preserve life. If a State legislature does not use its emergency powers to preserve life, then those Constitutional emergency powers (to mitigate an emergency, define an emergency, control the duration of countermeasures, and declare an end) fall into the hands of the Governor/executive branch. Concerning emergency powers in the State of Ohio, the Ohio Constitution has basic checks placed upon the Governor/executive branch. During this COVID episode, those checks have largely been ignored due to political hegemony, the hysteria surrounding this crisis, and legislative branch ignorance -and Ohioans are still suffering from violations of their freedoms as a result. Accountability for those violations by the State of Ohio upon Ohioans has eroded along with Ohio's Constitutional checks on the executive branch.

While the Ohio Governor should always be allowed to declare an emergency, **the Ohio General Assembly should always be a check on the emergency powers of the Governor as the Ohio Constitution does not allow the Governor to suspend law - even during a public health emergency. The executive branch has no authority to suspend due process or the equal application of the law when imposing public health orders.** Only the Ohio General Assembly has the power to suspend law during times of an emergency to save lives. Moreover, when a natural disaster such as a tornado or a blizzard strikes, the emergency is plain to see and obvious. Whereas a public health emergency may not be obvious and there may be more than a single solution to determine, address, and mitigate a public health emergency.

We would argue that mitigating a public health emergency should never involve creating fear and panic through coercion and obscurantism, which neither preserves liberty nor encourages unity in a time of crisis. On the

contrary, it shows poor leadership and a callous disregard for vulnerable Ohioans. The Ohio Legislature's decision to abdicate their delegated power to the executive branch has resulted in the arbitrary and capricious imposition of mask mandates, quarantines, and the forceable limiting or closing of businesses deemed non-essential. Furthermore, **whereas Ohioans had always tried to accommodate those with a disability in the past - now Ohioans are encouraged to keep the disabled from participating.** Those that had COVID-19 and recovered were prohibited from participating in society even though they could neither catch nor carry the virus. In many cases, these same individuals were donating their antibodies to help treat people with COVID-19 and were regarded as pariahs when requesting a facial covering exemption in public. Ohioans with breathing conditions and mental conditions such as PTSD, often as a result of defending our country ([Gulf War Syndrome](#)), instantly became second-class citizens. This was all in response to a mild pandemic. One can only imagine how badly we will react to a severe pandemic.

We know that language can be used recklessly. **Yelling “FIRE!” in a crowded movie theater should have consequences if it harms people. Limiting the type of speech that the executive branch can use in a public health emergency is just as important as limiting people yelling fire in a crowded movie theater.** Politicians acting recklessly with panic-inducing speech, which creates an environment of hysteria, should be held to the same level of accountability as the general public. As we continue to see an uptick in [suicides, drug-related crimes, and people seeking mental health counseling](#), it is clear that politicians must be restrained from creating an unwarranted environment of fear. The overreaction of politicians and educational institutions to the HIV-AIDS crisis during the 1980s provides a valuable lesson on how not to overreact and cause panic. Implementing a legal framework will help to ensure that language is used appropriately and commensurate with the level of emergency that is being experienced.

PROTECTING THE RIGHTS OF THE MINORITY

During a declared public health emergency, **it is always important to remember that the vulnerable and immunocompromised have rights.** Businesses have the right to cater to the vulnerable and the right to require fully approved vaccines as a

term of employment. However, because of the unknown harm that surrounds vaccines with no long-term testing - it is inherent upon legislators to determine if these types of vaccines may be required by businesses and under what extreme conditions. Vaccines that have no long-term testing have the possibility to cause long-term harm - much of which government programs may be on the hook for. Businesses must take responsibility for their actions and assume the risks of vaccines that have not been thoroughly tested. As many free-market conservatives would agree, the government must never be used as a safety net for businesses that choose to establish a vaccine mandate.

While healthcare freedom is both a simple and complex topic of discussion, we know instinctively that when we are forced to be injected with any medicine against our will that we do not have healthcare freedom. **If we lose our job or benefits or cannot participate in programs because we won't comply with a required medical procedure, it becomes more than an inconvenience. It alters our lives in a profound way.**

Ohioans have never had true healthcare freedom and it has taken a pandemic for many Ohioans to realize how a lack of framework regulating healthcare freedom can negatively impact their lives and encourage a culture of discriminatory practices. **We know from history and experience that total freedom is anarchy and rules that protect the minority and majority are important in maximizing our potential in pursuing exceptionalism.** The converse is true as well, too many laws can limit our freedoms and our pursuit to be exceptional. Anarchy has never produced a robust and free society and so laws were born. Laws, by their very nature, inhibit some of our freedoms. They always have. They always will. This legislation seeks to maximize and protect the freedoms of the people and the freedoms of business owners while preserving life.

HOME RULE

We believe the solution is to introduce legislation that works to save lives and only temporarily suspends freedoms during a severe emergency in order to preserve life. We believe government works best when the government is closest to the people. **A local**

government is almost always more engaging and more responsive to its constituents than a government that is not close to the people. It is for this reason that local health districts should be more than subservients to carry out the will of the Ohio Department of Health or the Governor during an emergency. They should have a seat at the table actively helping to guide the decision-making process during an emergency. Ohio's home-rule-friendly Constitution demands that health districts remain under local control and we believe that the boards of Ohio's local health districts should be popularly elected and free from the influence of the Ohio Department of Health and the Ohio Governor.

We believe that there are varying degrees of what can legitimately be perceived as a public health emergency. There are varying responses and powers that should be granted to the State government based upon the degree of the emergency and that a governor, by themselves, cannot impose a public health emergency and have unlimited power to shut down our economy with a purported emergency that not everyone agrees is a genuine emergency. **This legislation classifies three tangible levels of a public health emergency so that the government's response to preserve life is appropriate to the potential harm the emergency may cause.**

This prevents the use of taxpayer dollars being used to create state-sponsored propaganda that divides Ohioans and Americans. The State of Ohio should never be in the business of recommending vaccines. Vaccine manufacturers should market their own products.

ASPECTS OF GOOD LEGISLATION

This legislation defines and classifies three types of vaccines based upon their risk and limits how these vaccines can be utilized during a public health emergency and in relation to these types of public health emergencies. Highlights of the intent of this legislation are:

1. **AUTONOMY OF HEALTH DIRECTORS** The commissioners of local health districts are popularly elected and may act autonomously apart from the Ohio Department of Health. They are no longer appointed. No local health director may be an appointee of any appointer in the executive branch. No local health

director nor their immediate family shall be able to be terminated from any employment by the Governor.

2. **EXPERIMENTAL VACCINES** - No public or private entity shall mandate the use of a vaccine that is still undergoing safety trials, even if granted a EUA (Emergency Use Authorization) by the U.S. Food and Drug Administration. The State of Ohio, and its many agencies, departments, and elected officials may not encourage anyone to take any such experimental vaccines. No State funds, Federal funds spent by the State, or donated funds spent by the State shall be used to encourage Ohioans to get these vaccines.
3. **INTERMEDIATE OHIO VACCINES** Any public or private entity that mandates a vaccine that has been fully approved by the FDA for 10 years or less must carry \$2 million in liability catastrophic health insurance to cover possible negative health outcomes for each employee for 10 years (results in higher Worker's Compensation premiums). The State of Ohio may not make any recommendations to take any such vaccines. No State funds, Federal funds spent by the State, or donated funds spent by the State shall be used to encourage Ohioans to get these vaccines. Physicians employed by the State may make recommendations to patients but may make no public recommendations for these vaccines. The State of Ohio may allow the Ohio Department of Health and the Ohio Board of Pharmacy to make a written press release recommending these vaccines.
4. **FULLY APPROVED OHIO VACCINES** - This law allows for mandates for any vaccine that has been approved for at least 10 years by the FDA. The State may use State, Federal, and donated funds to encourage Ohioans to receive these types of vaccines.
5. **PROOF OF MEDICAL COMPLIANCE, (OHIO'S NURSING HOMES AND MEDICAL FACILITIES)**- Ohio nursing homes may require proof of vaccination for patronage and visitation. Ohio medical facilities may require proof of vaccination for elective medical visits. All proof of vaccination requirements for patronage or visitation shall have a 60-day exemption upon proof of immunity provided by an approved and credentialed testing laboratory.
6. **PROOF OF MEDICAL COMPLIANCE (OHIO'S SCHOOLS)** - Public and private Ohio primary and secondary schools, charter schools, places of higher education, daycares, and childcare centers may require proof of vaccination for fully approved vaccines. Schools may only do so as long as exemption requests, as codified by existing Ohio law, are allowed and accepted. Schools that require proof of intermediate vaccines must carry \$2 million in liability catastrophic health benefits insurance to cover possible negative health outcomes for each individual mandated.

7. PROOF OF MEDICAL COMPLIANCE (DURING AN EMERGENCY) - In the case of a true pandemic that causes or has been proven to cause a high degree of mortality, and which leads to the declaration of a public health emergency (by the Governor or Ohio Department of Health), proof of vaccination may be required by public and private entities only after concurrence of both chambers of the General Assembly (through law or a resolution) authorizes such a mandate. All proof of vaccination requirements for patronage or participation during a declared emergency shall have a 60-day exemption upon proof of immunity provided by an approved and credentialed testing laboratory.

	During a Public Health Emergency	During an Epidemic	During a Pandemic
Experimental Ohio Vaccines	<i>Cannot be required as proof of medical compliance. Cannot be mandated by employers.</i>	<i>Cannot be required as proof of medical compliance. Cannot be mandated by employers.</i>	<i>Cannot be required as proof of medical compliance. Cannot be mandated by employers.</i>
Intermediate Ohio Vaccines	<i>Cannot be required as proof of medical compliance. Cannot be mandated by employers.</i>	<i>Cannot be required as proof of medical compliance. Can be mandated by employers and schools but employers and schools must pay for associated insurance.</i>	<i>May be required as proof of medical compliance as approved by the General Assembly. May be mandated by employers but employers must pay for associated insurance.</i>
Fully approved Ohio Vaccines	<i>Can be required as proof of medical compliance. Can be mandated by employers. All exemptions must be honored.</i>	<i>Can be required as proof of medical compliance. Can be mandated by employers. Exemptions may or may not be honored by the Ohio General Assembly.</i>	<i>Can be required as proof of medical compliance. Can be mandated by employers. Exemptions may or may not be honored by the Ohio General Assembly.</i>

This approach:

- Puts vaccines into three classes from greatest risk to least risk for the purposes of broadly identifying vaccines by risk.
 - Experimental: Not FDA fully approved
 - Intermediate: FDA fully approved but less than 10 years on the market.
 - Fully approved: FDA fully approved and at least 10 years on the market.
- Prohibits mandating experimental vaccines that are still undergoing safety trials, period - end of story!
- Preserves the rights of employers to mandate vaccines that are not experimental or still undergoing safety trials.
- Establishes a financial consequence for employers that choose to mandate vaccines that have been fully approved for less than 10 years. This financial requirement places the burden (cost) of risk on employers in order to cover the potentially catastrophic risk that the State will incur if there are long-term negative health impacts. Employers must do this through a bond or insurance.
- Places no burden of risk (financial consequences) on an entity that mandates vaccines that have been fully approved for at least 10 years.
- Ends political propaganda production by the State of Ohio (free advertising for vaccine manufacturers) for vaccines that lack long-term testing, on-market use or full approval. Ends any type of state-run vaccine lottery or contest pushing vaccines that lack long-term, industry-standard testing and approval.
- Permits nursing, long-term care, and medical facilities to require proof of vaccination for patronage or visitation.
- Allows schools to mandate vaccines under certain conditions and must allow for current exceptions.

PROPOSED LEGISLATION

(See below)

As Introduced

134th General Assembly
Regular Session
2021-2022

H. B. No. XXX

Representative John Doe

Cosponsors: Jane Doe

ABILL

To enact section 3792.05 of the Revised Code and to amend sections 3709.02 and 3701.13 and repeal 3709.03 and 3709.04 to restore local control of general and regional health districts and affirm a vaccination policy for the State of Ohio that balances individual healthcare freedom with public health safety and to name this act the Ohio Vaccination and Healthcare Freedom Act.

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

Section 1. That section 3792.05 of the Revised Code be enacted to read as follows:

Section 3792.05. (A) As used in this section:

- (1) **"Death Certificate"** Is a certificate issued by an individual or entity approved by the Ohio Department of Health. A death certificate is not a public health record nor medical record and must be made available for inspection within seven days upon any public records request.
- (2) **"Mortality rate(s)"** is the rate that people die in Ohio during a given time frame that refers to the time and date of death as recorded on a death certificate. Mortality rates as used in this section do not include

- Ohioans that die outside of Ohio. In no case may mortality rates be calculated from deaths that exceed actual death certificates from a given time frame.
- (3) "**Expanded mortality rate(s)**" is the rate that Ohioans die during a given time frame that refers to the time and date of death as recorded on a death certificate. Mortality rates as used in this section include Ohioans that die outside of Ohio and list their primary residence as Ohio and pay either or both Ohio income tax and Ohio property tax.
- (4) "**Co-morbidity**" is a medical condition that is simultaneously present with another or others in a patient and in the opinion of a licensed medical doctor there exists evidence to suggest that the medical condition contributed to the death of the patient. In no case must the mere presence of a pathogen be considered a co-morbidity without evidence.
- (5) "**General Public**" is any person and or any other entity that is composed of a person or persons that reside or are present in Ohio and that are not specified within this section.
- (6) "**Public health emergency**" is a declared emergency when mortality rates for the state exceed the average rate of mortality over the last five years by at least ten percent but less than fifteen percent in comparison to the same time frame. If a public health emergency, epidemic, or pandemic has been declared in a year those years will not be utilized in computing averages. During a public health emergency, the general public must not be subject to proof of medical compliance for patronage at Ohio businesses. When no emergency exists or when a public health emergency is declared, participation in any State of Ohio or its lesser government programs including schools may only be limited to fully approved Ohio vaccines for proof of medical compliance. All exemptions provided in the section must remain in effect during a public health emergency. Upon petition by at least fifty percent of Ohio's local health districts, a public health emergency may be declared for the entire State.
- (7) "**Epidemic**" is a declared emergency when mortality rates for the state exceed the average rate of mortality over

the last five years by more than fifteen percent but less than twenty percent in comparison to the same time frame. If a public health emergency, epidemic, or pandemic has been declared in a year those years will not be utilized in computing averages. During an epidemic, the general public must not be subject to proof of medical compliance for patronage at Ohio businesses. During an epidemic, when both chambers of the General Assembly are in concurrence as stated in a resolution the General Assembly may permit Ohio medical facilities, nursing homes, and facilities that deal with the elderly and immunocompromised to require proof of medical compliance or proof of immunity for visitors and patrons. Upon petition by at least sixty-seven percent of Ohio's local health districts, an epidemic emergency may be declared for the entire State.

- (8) **"Pandemic"** is a declared emergency when mortality rates for the state area exceed the average rate of mortality over the last five years by more than twenty percent during the same time frame. If a public health emergency, epidemic, or pandemic has been declared in a year those years will not be utilized in computing averages. During a pandemic, when both chambers of the General Assembly are in concurrence as stated in an adopted resolution, the General Assembly may permit specified businesses, schools, Ohio's medical facilities, nursing homes and facilities that deal with the elderly and immunocompromised to required proof of medical compliance or proof of immunity for visitors and patrons. During a genuine pandemic, with the concurrence of both chambers of the General Assembly by a resolution, may suspend all exemptions to health protocols but may never require nor encourage the use of an experimental Ohio vaccine. Upon petition by at least seventy-five percent of Ohio's local health districts, a pandemic emergency may be declared for the entire State.
- (9) **"Vaccine"** is any agent that is proactively injected into a human that is intended to create antibodies to ward off disease or infection.
- (10) **"Experimental Ohio vaccine"** means a vaccine that has not been fully approved by the United States Food and Drug Administration.

- (11) "Intermediate Ohio vaccine" is a vaccine that has been fully approved by the United States Food and Drug Administration but does not have at least ten years of use in the marketplace.
- (12) "Fully approved Ohio vaccine" is a vaccine that has been fully approved by the United States Food and Drug Association and has had at least ten years of use in the marketplace.
- (13) "Proof of medical compliance" is any requirement of an individual to provide proof that the individual has completed a specific medical procedure, inoculation, or medical therapy to gain entry to, access to, receive services from, or secure employment with a business establishment, government program or school-sponsored activity or program.
- (14) "Medical health professional" is a licensed physician, nurse practitioner, mental health professional, pharmacist, or nurse that holds a license to practice within the State of Ohio or had practiced within Ohio for twenty years.

(B) Experimental Ohio Vaccines

- (1) The State of Ohio and its lesser governments and all businesses with **at least one** employee that works in the state of Ohio **shall not mandate the proof of medical compliance for** the use of an **experimental vaccine neither when an emergency does not exist nor during a declared public health emergency, epidemic, or pandemic.**
- (2) The State of Ohio and its lesser governments shall not **coerce or encourage** the general public to receive an **experimental Ohio vaccine.**
- (3) No State funds, Federal funds spent by the State, or donated funds spent by the State shall be used to encourage or coerce the general public to receive an **experimental Ohio vaccine.**
- (4) Physicians employed by the State may make recommendations to patients but may not make public statements

recommending **experimental Ohio vaccines** to the general public.

(C) Intermediate Ohio vaccines

(1) The State of Ohio and its lesser governments must not **mandate the proof of medical compliance for** the use of an **intermediate vaccine, except as provided in this section, neither when an emergency does not exist nor during a **declared** public health emergency, epidemic, or pandemic.** All businesses with **at least one** employee that works in the state of Ohio that mandate proof of medical compliance for an intermediate vaccine **must participate in Ohio's employer-mandated vaccine program.**

(2) The State of Ohio and its lesser governments must not **coerce or encourage** the general public to receive an **intermediate vaccine, except as provided for in this section.**

(3) No State funds, Federal funds spent by the State, or donated funds spent by the State shall be used to encourage or coerce the general public to receive an **intermediate vaccine.**

(4) Physicians employed by the State may make recommendations to patients but may not make public statements recommending **intermediate vaccines** to the general public.

(D) Fully approved Ohio vaccines

(1) The State of Ohio and its lesser governments may **mandate the proof of medical compliance for** the use of fully approved Ohio vaccines only **provided that all requests for exemption are granted, in compliance with this section.**

(2) The State of Ohio and its lesser governments may **encourage** the general public to receive fully approved **Ohio** vaccines.

(3) State funds, Federal funds spent by the State, or donated funds spent by the State may be used to

encourage the general public to receive a **fully approved Ohio vaccine.**

(4) Physicians employed by the State may make recommendations to patients and may make public statements recommending **fully approved Ohio vaccines** to the general public.

(E) Exceptions to proof of medical compliance

(1) Proof of immunity **shall** always be accepted in lieu of proof of medical compliance, from sixty days of testing from a credentialed and United States Food and Drug Administration approved testing laboratory. Proof of immunity exceptions may never be suspended.

(2) During a **declared** public health emergency and when no emergency is present, all public and private Ohio entities **shall** honor **requests for exemption** on the basis of reasons of conscience as provided in writing and notarized, religious beliefs as provided in writing and notarized, and medical exemption as provided in writing by a licensed medical doctor.

(3) During an epidemic, **and only upon** the concurrence of both chambers of the Ohio General Assembly by an adopted resolution, medical facilities, elder care facilities, and facilities that deal with the immunocompromised may suspend all but proof of immunity exceptions for no more than thirty days at a time.

(4) During a pandemic, **and** with the concurrence of both chambers of the Ohio General Assembly by an adopted resolution, all but proof of immunity exceptions may be suspended for no more than thirty days at a time.

(F) Ohio's employer-mandated vaccine program

(1) The Ohio Bureau of Worker's Compensation is instructed to create a "Mandated Vaccination Program" that shall provide up to a two million dollar benefit to compensate employees who are required by an Ohio business to

receive an intermediate vaccine as a condition of employment.

(a) Business owners shall pay a separate vaccination mandate premium that is in addition to their regular workmen's compensation premium as set by the Bureau.

(b) This benefit shall follow the employee after their term of employment but no longer than 10 years after receiving their vaccination.

(c) The State of Ohio and public or private employers that do not mandate a vaccination shall not be held legally, financially, or otherwise liable or responsible for the possible harm an individual may experience after receiving an intermediate vaccine.

(d) Ohio businesses may participate in approved private insurance programs in lieu of participating with Ohio's employer-mandated vaccine program.

(G) Escalation of emergencies

- (1) The Ohio Governor may only escalate a statewide emergency to a declared public health emergency when the requirements provided for in 3792.05(A) (6) are met.
- (2) The Ohio Governor may only escalate a statewide emergency to a declared epidemic emergency when the requirements provided for in 3792.05(A) (7) are met.
- (3) The Ohio Governor may only escalate a statewide emergency to a declared pandemic emergency when the requirements provided for in 3792.05(A) (8) are met.

(H) Emergencies dealing with public health

- (1) No elected or appointed official may provide or suggest medical or public health advice in their official capacity during an emergency unless there exists a public health emergency as provided in 3792.05(A) (6), 3792.05(A) (7), and 3792.05(A) (8) and has the concurrence of the governor and is provided for in this section.
- (2) Any elected official that violates this section must be found guilty of a first-degree misdemeanor.

Section 3701.13

(A) As used in this section:

(1) "Isolation" means the separation of one or more individuals who have been medically diagnosed with a communicable or contagious disease from other individuals who have not been medically diagnosed with the disease.

(2) "Quarantine" means the separation or restriction of movement of one or more individuals who have come into direct contact with someone who has been medically diagnosed with a communicable or contagious disease.

(B) (1) The department of health may be empowered by a concurrence of both chambers of the Ohio General Assembly when a public health emergency has been declared by the governor ~~shall have supervision of all matters relating to direct policy to the preservation of~~ preserve the life and health of the people and may wield emergency powers that include the authority ~~in matters of~~ to implement, administer, and end any and all quarantine and isolation actions imposed on Ohioans without due process, which ~~it may declare and enforce, during a public health emergency exists, and modify, relax, or abolish, when either has been established.~~ The authority of the department of health under this section is only superior during a declared public health emergency to the authority of a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(2) The department may approve methods of immunization against the diseases specified in section 3313.671 of the Revised Code for the purpose of carrying out the provisions of that section ~~and take such actions as are necessary to encourage vaccination against those diseases.~~

(C) Subject to section 101.36 of the Revised Code, the department may make special or standing orders or rules during a declared public health emergency for preventing the spread of contagious or infectious diseases.

(D) In addition to the authority granted by division (C) (1) of this section, the department may make special or standing orders or rules for any of the following purposes:

(1) To prevent the use of fluoroscopes for nonmedical purposes that emit doses of radiation likely to be harmful to any person;

(2) To govern the receipt and conveyance of remains of deceased persons;

(3) To address such other sanitary matters as are best controlled by a general rule.

(E) Whenever possible, the department shall work in cooperation with the health ~~commissioner~~ director of a general or city health district.

~~In any of the following circumstances, the department may make and enforce orders in local matters or reassign substantive authority for mandatory programs from a general or city health district to another general or city health district: when an emergency exists, when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised Code. In such cases, the necessary expense incurred shall be paid by the general health district or city for which the services are rendered.~~

~~The department of health may require general or city health districts to enter into agreements for shared services under section 9.482 of the Revised Code. The department shall prepare and offer to boards of health a model contract and memorandum of understanding that are easily adaptable for use by boards of health when entering into shared services agreements. The department also may offer financial and other technical assistance to boards of health to encourage the sharing of services.~~

~~As a condition precedent to receiving funding from the department of health, the director of health may require general or city health districts to apply for accreditation by July 1, 2018, and be accredited by July 1, 2020, by an accreditation body approved by the director. The director of health, by July 1, 2016, shall conduct an evaluation of general and city health district preparation for accreditation, including an evaluation~~

~~of each district's reported public health quality indicators as provided for in section 3701.98 of the Revised Code.~~

(F) The department may make evaluative studies of the nutritional status of Ohio residents, and of the food and nutrition-related programs operating within the state. Every agency of the state, at the request of the department, shall provide information and otherwise assist in the execution of such studies.

Section 3709.02

(A) In each general health district there shall be a board of health consisting of five medical health professionals ~~member~~ to be ~~appointed~~ elected as provided in sections 3709.03 and 3709.41 of the Revised Code. The members need not live in the district they represent and may represent more than one district. The term of office of the members shall be ~~five~~ four years from the date of ~~appointment~~ the general election in 2023, and every four years thereafter, in the odd number year that precedes the presidential election of the United States. ~~except that of those first appointed one shall serve for five years, one for four years, one for three years, one for two years, and one for one year, and thereafter one shall be appointed each year. This paragraph does not apply to a combined board of health created under section 3709.07 of the Revised Code.~~

(B) Each member of the board shall be paid a sum not to exceed ~~eighty dollars a day~~ five times Ohio's minimum hourly wage for every hour ~~for~~ of the member's attendance at each meeting of the board. No member shall receive compensation for attendance at more than ~~eighteen meetings~~ 120 hours in any year.

(C) Each member of the board shall receive travel expenses at rates established by the director of budget and management pursuant to section 126.31 of the Revised Code to cover the actual and necessary travel expenses incurred for travel to and from meetings that take place outside the county in which the member resides, except that any member may receive travel

expenses for registration for any conference that takes place inside the county in which the member resides.

~~(D) A vacancy in the membership of the board shall be filled by a special election occurring one hundred and twenty days from the vacancy in the same manner as an original appointment and shall be for the unexpired term. When a vacancy occurs in a position to be filled by the district advisory council, the council shall hold a special meeting pursuant to section 3709.03 of the Revised Code for the purpose of appointing a member to fill the vacancy.~~

(E) A majority of the members of the board constitutes a quorum.

(F) Meetings may occur electronically via the internet. A minimum of twelve meetings per year must occur. A minimum of three meetings must occur as physical meetings

(G) The board must adopt bylaws. If the board fails to adopt bylaws within thirty days after their election then the Ohio Department of Health shall supply the board with temporary operating bylaws.

(H) The board must elect a director that will serve as the chairman, a vice-chairman, a secretary, and a treasurer. If the board fails to elect officers then the director of the Ohio Department of Health shall select the officers of the board from the elected members.

Section 3709.03

~~(A) There is hereby created in each general health district a district advisory council. A council shall consist of the president of the board of county commissioners, the chief executive of each municipal corporation not constituting a city health district, and the chairperson of the board of township trustees of each township. The board of county commissioners, the legislative body of a municipal corporation, and the board of township trustees of a township may select an alternate from among themselves to serve if the president, the chief executive,~~

~~or the chairperson is unable to attend any meeting of the district advisory council. When attending a meeting on behalf of a council member, the alternate may vote on any matter on which the member is authorized to vote. The council shall consist of five popularly elected medical professionals~~

~~The council shall organize by selecting a chair and secretary from among its members. The council shall adopt bylaws governing its meetings, the transaction of business, and voting procedures.~~

~~The council shall meet as they deem necessary annually in March and shall meet no later than thirty days after being elected at a place determined by the chair and the health commissioner for the purpose of electing the chair and the secretary, making necessary appointments to the board of health, receiving and considering the annual or special reports from the board of health, and making recommendations to the board of health or to the department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation. The secretary of the council shall notify the district health commissioner and the director of health of the proceedings of such meeting.~~

~~Special meetings of the council shall be held on the order of any of the following:~~

~~(1) The director of health;~~

~~(2) The board of health;~~

~~(3) The lesser of five or a majority of district advisory council members.~~

~~The district health commissioner shall attend all meetings of the council.~~

~~(B) The district advisory council shall appoint five members of the board of health, unless the board of health has established a health district licensing council under section 3709.41 of the Revised Code, in which case, the district advisory council shall appoint four members of the board of health, and the health district licensing council shall appoint one member of the board of health. At least one member of the board of health shall be a physician. Appointments shall be made with due regard to equal representation of all parts of the district.~~

~~(C) If at an annual or special meeting at which a member of the board of health is to be appointed fewer than a majority of the members of the district council are present, the council, by the majority vote of council members present, may organize an executive committee to make the appointment. An executive committee shall consist of five council members, including the president of the board of county commissioners, the council chair, the council secretary, and two additional council members selected by majority affirmative vote of the council members present at the meeting. The additional members selected shall include one representative of municipal corporations in the district that are not city health districts and one representative of townships in the district. If an individual is eligible for more than one position on the executive committee due to holding a particular office, the individual shall fill one position on the committee and the other position shall be filled by a member selected by a majority affirmative vote of the council members present at the meeting. A council member's alternate for annual meetings may serve as the member's alternate at meetings of the executive committee.~~

~~Not later than thirty days after an executive committee is organized, the committee shall meet and the council chair shall present to the committee the matter of appointing a member of the board of health. The committee shall appoint the board member by majority affirmative vote. In the case of a combined health district, the executive committee shall appoint only~~

~~members of the board of health that are to be appointed by the district advisory council, unless the contract for administration of health affairs in the combined district provides otherwise. If a majority affirmative vote is not reached within thirty days after the executive committee is organized, the director of health shall appoint the member of the board of health under the authority conferred by section 3709.03 of the Revised Code.~~

~~If the council fails to meet or appoint a member of the board of health as required by this section or section 3709.02 of the Revised Code, the director of health may appoint the member.~~

Section 3709.04

~~If in any general health district the district advisory council fails to meet or to select a board of health, the director of health may appoint a board of health for such district which shall have and exercise all powers conferred on a board of health of a general health district.~~