As Reported by the Senate Health Committee

134th General Assembly

Regular Session **Sub. H. B. No. 122**

2021-2022

Representatives Fraizer, Holmes

Cosponsors: Representatives Carfagna, Hall, Seitz, Baldridge, Blackshear, Brown, Carruthers, Click, Crossman, Cutrona, Edwards, Galonski, Ghanbari, Gross, Hoops, Householder, Ingram, Jarrells, Jones, Koehler, Lanese, LaRe, Lightbody, Liston, McClain, Miller, A., Miranda, Pavliga, Plummer, Ray, Richardson, Roemer, Russo, Sheehy, Smith, K., Smith, M., Sobecki, Stein, Stephens, Swearingen, Sweeney, West, White, Wiggam, Young, B., Young, T., Speaker Cupp

Senators Huffman, S., Romanchuk, Johnson

A BILL

To amend sections 3902.30, 4723.94, 4731.251, 4731.252, 4731.253, 4731.2910, 4731.30, 4732.33, and 5164.95; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4731.253 (4731.254) and 4731.2910 (4743.09); and to enact new section 4731.253 and sections 3319.2212, 3701.1310, 3721.60, 4715.438, 4725.35, 4729.285, 4730.60, 4731.741, 4734.60, 4753.20, 4755.90, 4757.50, 4758.80, 4759.20, 4761.30, 4778.30, 4783.20, 5119.368, and 5164.291 of the Revised Code, and to amend Section 3 of S.B. 9 of the 130th General Assembly, as subsequently amended, to establish and modify requirements regarding the provision of telehealth services, to establish a provider credentialing program within the Medicaid program, to revise the law governing the State Medical Board's One-Bite Program, and

to extend the suspension of certain programs and requirements under the state's insurance laws until January 1, 2026.

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

Section 1. That sections 3902.30, 4723.94, 4731.251, 4731.252, 4731.253, 4731.2910, 4731.30, 4732.33, and 5164.95 be amended; sections 4731.253 (4731.254) and 4731.2910 (4743.09) be amended for the purpose of adopting new section numbers as indicated in parentheses; new section 4731.253 and sections 3319.2212, 3701.1310, 3721.60, 4715.438, 4725.35, 4729.285, 4730.60, 4731.741, 4734.60, 4753.20, 4755.90, 4757.50, 4758.80, 4759.20, 4761.30, 4778.30, 4783.20, 5119.368, and 5164.291 of the Revised Code be enacted to read as follows:

Sec. 3319.2212. A school psychologist licensed by the department of education under rules adopted in accordance with sections 3301.07 and 3319.22 of the Revised Code may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 3701.1310. During any declared disaster, epidemic, pandemic, public health emergency, or public safety emergency, an individual with a developmental disability or any other permanent disability who is in need of surgery or any other health care procedure, any medical or other health care test, or any clinical care visit shall be given the opportunity to have at least one parent or legal guardian present if the presence of the individual's parent or legal guardian is necessary to alleviate any negative reaction that may be experienced by the

individual who is the patient.

The director of health may take any action necessary to enforce this section.

Sec. 3721.60. (A) As used in this section, "long-term care facility" means all of the following:

(1) A home, as defined in section 3721.10 of the Revised Code;

(2) A residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code;

(3) A residential facility licensed by the department of developmental disabilities under section 5123.19 of the Revised Code;

(4) A facility operated by a hospice care program licensed by the department of health under Chapter 3712. of the Revised Code that is used exclusively for care of hospice patients or any other facility in which a hospice care program provides care for hospice patients.

(B) During any declared disaster, epidemic, pandemic, public health emergency, or public safety emergency, each long-term care facility shall provide residents and their families with a video-conference visitation option if the governor, the director of health, other government official or entity, or the long-term care facility determines that allowing in-person visits at the facility would create a risk to the health of the residents.

Sec. 3902.30. (A) As used in this section:

(1) "Cost sharing" means the cost to a covered individual

under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan.

(2) "Health benefit plan," "health care services," and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code.

~~(2)~~ (3) "Health care professional" ~~means any of the following:~~

~~(a) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;~~

~~(b) A physician assistant licensed under Chapter 4731. of the Revised Code;~~

~~(c) An advanced practice registered nurse as defined in section 4723.01 of the Revised Code.~~ has the same meaning as in section 4743.09 of the Revised Code.

~~(3)~~ (4) "In-person health care services" means health care services delivered by a health care professional through the use of any communication method where the professional and patient are simultaneously present in the same geographic location.

~~(4) "Recipient" means a patient receiving health care services or a health care professional with whom the provider of health care services is consulting regarding the patient.~~

(5) ~~"Telemedicine~~ "Telehealth services" ~~means a mode of providing health care services through synchronous or asynchronous information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where the~~

~~recipient is located~~has the same meaning as in section 4743.09 of the Revised Code.

(B)(1) A health benefit plan shall provide coverage for ~~telemedicine~~ telehealth services on the same basis and to the same extent that the plan provides coverage for the provision of in-person health care services.

(2) A health benefit plan shall not exclude coverage for a service solely because it is provided as a ~~telemedicine~~ telehealth service.

(3) A health plan issuer shall reimburse a health care professional for a telehealth service that is covered under a patient's health benefit plan. Division (B)(3) of this section shall not be construed to require a specific reimbursement amount.

(C) A health benefit plan shall not impose any annual or lifetime benefit maximum in relation to ~~telemedicine~~ telehealth services other than such a benefit maximum imposed on all benefits offered under the plan.

~~(D) This~~ (D)(1) A health benefit plan shall not impose a cost-sharing requirement for telehealth services that exceeds the cost-sharing requirement for comparable in-person health care services.

(2)(a) A health benefit plan shall not impose a cost-sharing requirement for a communication when all of the following apply:

(i) The communication was initiated by the health care professional.

(ii) The patient consented to receive a telehealth service

from that provider on any prior occasion.

(iii) The communication is conducted for the purposes of preventive health care services only.

(b) If a communication described in division (D)(2)(a) of this section is coded based on time, then only the time the health care professional spends engaged in the communication is billable.

(E) This section shall not be construed as doing any of the following:

(1) ~~Prohibiting a health benefit plan from assessing cost-sharing requirements to a covered individual for telemedicine services, provided that such cost-sharing requirements for telemedicine services are not greater than those for comparable in-person health care services;~~

~~(2)~~ Requiring a health plan issuer to reimburse a health care professional for any costs or fees associated with the provision of ~~telemedicine~~ telehealth services that would be in addition to or greater than the standard reimbursement for comparable in-person health care services;

~~(3)~~ (2) Requiring a health plan issuer to reimburse a ~~telemedicine~~ telehealth provider for ~~telemedicine~~ telehealth services at the same rate as in-person services~~.~~

~~(E) This section applies to all health benefit plans issued, offered, or renewed on or after January 1, 2021.~~;

(3) Requiring a health plan issuer to provide coverage for asynchronous communication that differs from the coverage described in the applicable health benefit plan.

(F) The superintendent of insurance may adopt rules in

accordance with Chapter 119. of the Revised Code as necessary to carry out the requirements of this section. Any such rules adopted by the superintendent are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

Sec. 4715.438. Nothing in H.B. 122 of the 134th general assembly shall be interpreted as altering any law related to the practice of dentistry or rule adopted by the state dental board that is in effect on the effective date of this section.

Sec. 4723.94. ~~(A) As used in this section:~~

~~(1) "Facility fee" means any fee charged or billed for telemedicine services provided in a facility that is intended to compensate the facility for its operational expenses and is separate and distinct from a professional fee.~~

~~(2) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.~~

~~(3) "Telemedicine services" has the same meaning as in section 3902.30 of the Revised Code.~~

~~(B)~~ An advanced practice registered nurse ~~providing telemedicine~~ may provide telehealth services ~~shall not charge a facility fee, an origination fee, or any fee associated with the cost of the equipment used to provide telemedicine services to a health plan issuer covering telemedicine services under~~ in accordance with section ~~3902.30~~ 4743.09 of the Revised Code.

Sec. 4725.35. An optometrist who holds a therapeutic pharmaceutical agents certificate issued under this chapter may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4729.285. A pharmacist may provide telehealth services in accordance with section 4743.09 of the Revised Code, except that in the case of dispensing a dangerous drug, a pharmacist shall not use telehealth mechanisms or other virtual means to perform any of the actions involved in dispensing the dangerous drug unless the action is authorized by the state board of pharmacy through rules it adopts under this chapter or section 4743.09 of the Revised Code.

Sec. 4730.60. A physician assistant may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4731.251. (A) As used in this section and in sections 4731.252 ~~and 4731.253~~ to 4731.254 of the Revised Code:

(1) "Applicant" means an individual who has applied under Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code for a license, training or other certificate, limited permit, or other authority to practice as any one of the following practitioners: a physician assistant, physician, podiatrist, limited branch of medicine practitioner, dietitian, anesthesiologist assistant, respiratory care professional, acupuncturist, radiologist assistant, or genetic counselor. "Applicant" may include an individual who has been granted authority by the state medical board to practice as one type of practitioner, but has applied for authority to practice as another type of practitioner.

(2) "Impaired" or "impairment" has the same meaning as in division (B)(5) of section 4730.25, division (B)(26) of section 4731.22, division (A)(18) of section 4759.07, division (B)(6) of section 4760.13, division (A)(18) of section 4761.09, division (B)(6) of section 4762.13, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code.

~~(2)~~ (3) "Practitioner" means any of the following:

(a) An individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine;

(b) An individual licensed under Chapter 4730. of the Revised Code to practice as a physician assistant;

(c) An individual authorized under Chapter 4759. of the Revised Code to practice as a dietitian;

(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;

(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;

(f) An individual authorized under Chapter 4762. of the Revised Code to practice as an acupuncturist ~~or oriental medicine practitioner~~;

(g) An individual authorized under Chapter 4774. of the Revised Code to practice as a radiologist assistant;

(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.

(B) The state medical board shall establish a confidential program for the treatment of impaired practitioners and applicants, which shall be known as the one-bite program. The board shall contract with one organization to conduct the program and perform monitoring services.

To be qualified to contract with the board under this section, an organization must meet all of the following requirements:

(1) Be sponsored by one or more professional associations or societies of practitioners;

(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;

(3) Contract with or employ to serve as the organization's medical director an individual who is authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in addiction medicine;

(4) Contract with or employ one or more of the following as necessary for the organization's operation:

(a) An individual licensed under Chapter 4758. of the Revised Code as an independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor III, or chemical dependency counselor II;

(b) An individual licensed under Chapter 4757. of the Revised Code as an independent social worker, social worker, licensed professional clinical counselor, or licensed professional counselor;

(c) An individual licensed under Chapter 4732. of the Revised Code as a psychologist.

(C) The monitoring organization shall do all of the following pursuant to the contract:

(1) Receive any report of suspected practitioner impairment, including a report made under division (B)(2) of section 4730.32, division (B)(2) of section 4731.224, section

4759.13, division (B)(2) of section 4760.16, section 4761.19, division (B)(2) of section 4762.16, division (B)(2) of section 4774.16, or section 4778.17 of the Revised Code;

(2) Notify a practitioner who is the subject of a report received under division (C)(1) of this section that the report has been made and that the practitioner may be eligible to participate in the program conducted under this section;

(3) Receive from the board a referral regarding an applicant, as described in section 4731.253 of the Revised Code;

(4) Evaluate the records of an applicant who is the subject of a referral received under division (C)(3) of this section, in particular records from another jurisdiction regarding the applicant's prior treatment for impairment or current monitoring;

(5) Determine whether a practitioner reported or applicant referred to the monitoring organization is eligible to participate in the program and notify the practitioner or applicant of the determination;

~~(4)~~ (6) In the case of a practitioner reported by a treatment provider, notify the treatment provider of the eligibility determination;

~~(5)~~ (7) Report to the board any practitioner or applicant who is determined ~~—~~ineligible to participate in the program;

~~(6)~~ (8) Refer an eligible practitioner who chooses to participate in the program for evaluation by a treatment provider approved by the board under section 4731.25 of the Revised Code, unless the report received by the monitoring organization was made by an approved treatment provider and the practitioner has already been evaluated by the treatment

provider;

~~(7)~~ (9) Monitor the evaluation of an eligible practitioner;

~~(8)~~ (10) Refer an eligible practitioner who chooses to participate in the program to a treatment provider approved by the board under section 4731.25 of the Revised Code;

~~(9)~~ (11) Establish, in consultation with the treatment provider to which a practitioner is referred, the terms and conditions with which the practitioner must comply for continued participation in and successful completion of the program;

~~(10)~~ (12) Report to the board any practitioner who does not complete evaluation or treatment or does not comply with any of the terms and conditions established by the monitoring organization and the treatment provider;

~~(11)~~ (13) Perform any other activities specified in the contract with the board or that the monitoring organization considers necessary to comply with this section and sections 4731.252 ~~and 4731.253~~ to 4731.254 of the Revised Code.

(D) The monitoring organization shall not disclose to the board the name of a practitioner or applicant or any records relating to a practitioner or applicant, unless any of the following occurs:

(1) The practitioner or applicant is determined to be ineligible to participate in the program.

(2) The practitioner or applicant requests the disclosure.

(3) The practitioner or applicant is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring.

(4) The practitioner or applicant presents an imminent danger to the public or to the practitioner, as a result of the practitioner's or applicant's impairment.

(5) The practitioner has relapsed or the practitioner's impairment has not been substantially alleviated by participation in the program.

(E)(1) The monitoring organization shall develop procedures governing each of the following:

(a) Receiving reports of practitioner impairment;

(b) Notifying practitioners of reports and eligibility determinations;

(c) Receiving applicant referrals as described in section 4731.253 of the Revised Code;

(d) Evaluating records of referred applicants, in particular records from other jurisdictions regarding prior treatment for impairment or continued monitoring;

(e) Notifying applicants of eligibility determinations;

(f) Referring eligible practitioners for evaluation or treatment;

~~(d)~~ (g) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers;

~~(e)~~ (h) Establishing individualized terms and conditions with which eligible practitioners or applicants must comply for continued participation in and successful completion of the program.

(2) The monitoring organization, in consultation with the board, shall develop procedures governing each of the following:

(a) Providing reports to the board on a periodic basis on the total number of practitioners or applicants participating in the program, without disclosing the names or records of any program participants other than those about whom reports are required by this section;

(b) Reporting to the board any practitioner or applicant who due to impairment presents an imminent danger to the public or to the practitioner or applicant;

(c) Reporting to the board any practitioner or applicant who is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring;

(d) Reporting to the board any practitioner or applicant whose impairment was not substantially alleviated by participation in the program or who has relapsed.

(F) The board may adopt any rules it considers necessary to implement this section and sections 4731.252 ~~and 4731.253~~ to 4731.254 of the Revised Code, including rules regarding the monitoring organization and treatment providers that provide treatment to practitioners referred by the monitoring organization. Any such rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4731.252. (A) A practitioner is eligible to participate in the program established under section 4731.251 of the Revised Code if all of the following are the case:

(1) The practitioner is impaired.

(2) The practitioner has not participated previously in the program.

(3) Unless the state medical board has referred the

practitioner to the program, the practitioner has not been sanctioned previously by the board ~~under division (B)(5) of section 4730.25, division (B)(26) of section 4731.22, division (A)(18) of section 4759.07, division (B)(6) of section 4760.13, division (A)(18) of section 4761.09, division (B)(6) of section 4762.13, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code~~for impairment.

(B) All of the following apply to a practitioner who participates in the program:

(1) The practitioner must comply with all terms and conditions for continued participation in and successful completion of the program.

(2) On acceptance into the program, the practitioner must suspend practice until after the later of the following:

(a) The date the treatment provider determines that the practitioner is no longer impaired and is able to practice according to acceptable and prevailing standards of care;

(b) The end of a period specified by the treatment provider, which shall be not less than thirty days.

(3) The practitioner is responsible for all costs associated with participation.

(4) The practitioner is deemed to have waived any right to confidentiality that would prevent the monitoring organization conducting the program or a treatment provider from making reports required by section 4731.251 of the Revised Code.

Sec. 4731.253. (A) Subject to division (B) of this section, the state medical board shall not limit or suspend a license, certificate, or limited permit, refuse to issue a

license, certificate, or limited permit, or reprimand or place on probation an applicant solely on the grounds of impairment occurring prior to the applicant seeking authority to practice in this state.

(B)(1) An applicant who was authorized to practice in another jurisdiction before seeking authority to practice in this state is not subject to disciplinary action, as provided by division (A) of this section, and is eligible to participate in the program established under section 4731.251 of the Revised Code, only if all of the following are the case:

(a) As part of the process of applying for authority to practice in this state, the applicant disclosed to the board impairment that occurred while practicing in the other jurisdiction.

(b) The applicant does all of the following:

(i) Participates currently in a confidential treatment and monitoring program for impairment in the other jurisdiction;

(ii) Agrees to provide to the board or monitoring organization documentation of the applicant's current participation;

(iii) Waives any right to confidentiality that would prevent the board or monitoring organization from sharing that documentation with each other.

(c) The applicant remains in good standing with the other jurisdiction's licensing authority and confidential treatment and monitoring program.

(d) The applicant has not participated previously in the program established under section 4731.251 of the Revised Code

and certifies a willingness to participate in this program.

(e) The applicant has not been sanctioned previously by the board for impairment.

(2) An applicant who was not authorized to practice in any jurisdiction before seeking authority to practice in this state is not subject to disciplinary action, as provided by division (A) of this section, and is eligible to participate in the program established under section 4731.251 of the Revised Code, only if all of the following are the case:

(a) As part of the process of applying for authority to practice in this state, the applicant disclosed to the board impairment that occurred before applying for authority to practice.

(b) For the impairment disclosed to the board, the applicant meets all of the following:

(i) Participated in and successfully completed a treatment program and any terms of aftercare;

(ii) Agrees to provide to the board or monitoring organization documentation of the applicant's participation and successful completion;

(iii) Waives any right to confidentiality that would prevent the board or monitoring organization from sharing that documentation with each other.

(c) The applicant has not participated previously in the program established under section 4731.251 of the Revised Code and certifies a willingness to participate in this program.

(d) The applicant has not been sanctioned previously by the board for impairment.

(C) The monitoring organization shall evaluate the applicant's treatment and monitoring records and promptly notify the board if the records do not meet the monitoring organization's eligibility standards for the program established under section 4731.251 of the Revised Code.

(D) If the board grants an applicant described in this section a license, certificate, or limited permit to practice in this state, the board shall refer the practitioner to the monitoring organization conducting the program established under section 4731.251 of the Revised Code.

(E) Upon the board's referral to the monitoring organization, all of the following apply:

(1) The practitioner shall enter into a monitoring agreement with the monitoring organization conducting the program established under section 4731.251 of the Revised Code.

(2) Based on an evaluation of the practitioner's prior treatment or monitoring, the monitoring organization shall determine the length and terms of the practitioner's monitoring agreement.

(3) The practitioner shall comply with all terms and conditions for continued participation in and successful completion of the program.

(4) The practitioner shall be responsible for all costs associated with participation in the program.

(5) The practitioner shall be deemed to have waived any right to confidentiality that would prevent the monitoring organization conducting the program from making reports required by section 4731.251 of the Revised Code.

Sec. ~~4731.253~~ 4731.254. In the absence of fraud or bad faith, no monitoring organization that conducts a program established under section 4731.251 of the Revised Code and no agent, employee, member, or representative of such organization shall be liable in damages in a civil action or subject to criminal prosecution for performing any of the duties required by that section, the contract with the state medical board, or section 4731.252 or 4731.253 of the Revised Code.

Sec. 4731.30. (A) As used in this section and sections 4731.301 and 4731.302 of the Revised Code, "medical marijuana," "drug database," "physician," and "qualifying medical condition" have the same meanings as in section 3796.01 of the Revised Code.

(B)(1) Except as provided in division (B)(4) of this section, a physician seeking to recommend treatment with medical marijuana shall apply to the state medical board for a certificate to recommend. An application shall be submitted in the manner established in rules adopted under section 4731.301 of the Revised Code.

(2) The board shall grant a certificate to recommend if both of the following conditions are met:

(a) The application is complete and meets the requirements established in rules.

(b) The applicant demonstrates that the applicant does not have an ownership or investment interest in or compensation arrangement with an entity licensed under Chapter 3796. of the Revised Code or an applicant for licensure.

(3) A certificate to recommend expires according to the renewal schedule established in rules adopted under section

4731.301 of the Revised Code and may be renewed in accordance with the procedures established in those rules.

(4) This section does not apply to a physician who recommends treatment with marijuana or a drug derived from marijuana under any of the following that is approved by an investigational review board or equivalent entity, the United States food and drug administration, or the national institutes of health or one of its cooperative groups or centers under the United States department of health and human services:

(a) A research protocol;

(b) A clinical trial;

(c) An investigational new drug application;

(d) An expanded access submission.

(C)(1) A physician who holds a certificate to recommend may recommend that a patient be treated with medical marijuana if all of the following conditions are met:

(a) The patient has been diagnosed with a qualifying medical condition;

(b) A bona fide physician-patient relationship has been established through all of the following:

(i) An ~~in-person physical~~ examination of the patient by the physician <u>either in person or through the use of telehealth services in accordance with section 4743.09 of the Revised Code</u>;

(ii) A review of the patient's medical history by the physician;

(iii) An expectation of providing care and receiving care on an ongoing basis.

(c) The physician has requested, or a physician delegate approved by the state board of pharmacy has requested, from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the report, and the physician has reviewed the report.

(2) In the case of a patient who is a minor, the physician may recommend treatment with medical marijuana only after obtaining the consent of the patient's parent or other person responsible for providing consent to treatment.

(D)(1) When issuing a written recommendation to a patient, the physician shall specify any information required in rules adopted by the board under section 4731.301 of the Revised Code.

(2) A written recommendation issued to a patient under this section is valid for a period of not more than ninety days. The physician may renew the recommendation for not more than three additional periods of not more than ninety days each. Thereafter, the physician may issue another recommendation to the patient only upon ~~a physical~~ an examination of the patient as described in division (C)(1)(b)(i) of this section.

(E) Annually, the physician shall submit to the state medical board a report that describes the physician's observations regarding the effectiveness of medical marijuana in treating the physician's patients during the year covered by the report. When submitting reports, a physician shall not include any information that identifies or would tend to identify any specific patient.

(F) Each physician who holds a certificate to recommend shall complete annually at least two hours of continuing medical education in medical marijuana approved by the state medical

board.

(G) A physician shall not do any of the following:

(1) Personally furnish or otherwise dispense medical marijuana;

(2) Issue a recommendation for a family member or the physician's self.

(H) A physician is immune from civil liability, is not subject to professional disciplinary action by the state medical board or state board of pharmacy, and is not subject to criminal prosecution for any of the following actions:

(1) Advising a patient, patient representative, or caregiver about the benefits and risks of medical marijuana to treat a qualifying medical condition;

(2) Recommending that a patient use medical marijuana to treat or alleviate the condition;

(3) Monitoring a patient's treatment with medical marijuana.

Sec. 4731.741. A physician may provide telehealth services in accordance with sections 4743.09 of the Revised Code.

Sec. 4732.33. (A) The state board of psychology shall adopt rules governing the use of telepsychology for the purpose of protecting the welfare of recipients of telepsychology services and establishing requirements for the responsible use of telepsychology in the practice of psychology and school psychology, including supervision of persons registered with the state board of psychology as described in division (B) of section 4732.22 of the Revised Code. The rules adopted by the board shall be consistent with section 4743.09 of the Revised

Code. The rules are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(B) A psychologist or school psychologist may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4734.60. A chiropractor may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. ~~4731.2910~~ 4743.09. (A) As used in this section:

(1) "Durable medical equipment" means a type of equipment, such as a remote monitoring device utilized by a physician, physician assistant, or advanced practice registered nurse in accordance with this section, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, and generally is not useful to a person in the absence of illness or injury and, in addition, includes repair and replacement parts for the equipment.

(2) "Facility fee" ~~has the same meaning as in section 4723.94 of the Revised Code~~ means any fee charged or billed for telehealth services provided in a facility that is intended to compensate the facility for its operational expenses and is separate and distinct from a professional fee.

~~(2)~~ (3) "Health care professional" means:

(a) An advanced practice registered nurse, as defined in section 4723.01 of the Revised Code;

(b) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;

(c) A pharmacist licensed under Chapter 4729. of the

Revised Code;

(d) A physician assistant licensed under Chapter 4730. of the Revised Code;

(e) A physician licensed under ~~this chapter~~ Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

~~(b) A physician assistant licensed under Chapter 4730.~~

(f) A psychologist or school psychologist licensed under Chapter 4732. of the Revised Code or under rules adopted in accordance with sections 3301.07 and 3319.22 of the Revised Code;

(g) A chiropractor licensed under Chapter 4734. of the Revised Code;

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(i) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code;

(k) A professional clinical counselor, independent social worker, or independent marriage and family therapist licensed under Chapter 4757. of the Revised Code;

(l) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;

(m) A dietitian licensed under Chapter 4759. of the

Revised Code;

(n) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;

(p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code.

~~(3)~~ (4) "Health care professional licensing board" means any of the following:

(a) The board of nursing;

(b) The state vision professionals board;

(c) The state board of pharmacy;

(d) The state medical board;

(e) The state board of psychology;

(f) The state board of education with respect to the licensure of school psychologists;

(g) The state chiropractic board;

(h) The state speech and hearing professionals board;

(i) The Ohio occupational therapy, physical therapy, and athletic trainers board;

(j) The counselor, social worker, and marriage and family therapist board;

(k) The chemical dependency professionals board.

(5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.

~~(4)~~ (6) "~~Telemedicine~~ Telehealth services" ~~has the same meaning as in section 3902.30 of the Revised Code~~means health care services provided through the use of information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where either of the following is located:

(a) The patient receiving the services;

(b) Another health care professional with whom the provider of the services is consulting regarding the patient.

(B)(1) Each health care professional licensing board shall permit a health care professional under its jurisdiction to provide the professional's services as telehealth services in accordance with this section. Subject to division (B)(2) of this section, a board may adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by a board are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(2)(a) Except as provided in division (B)(2)(b) of this section, the rules adopted by a health care professional licensing board under this section shall establish a standard of care for telehealth services that is equal to the standard of care for in-person services.

(b) Subject to division (B)(2)(c) of this section, a board may require an initial in-person visit prior to prescribing a schedule II controlled substance to a new patient, equivalent to applicable state and federal requirements.

(c)(i) A board shall not require an initial in-person

visit for a new patient whose medical record indicates that the patient is receiving hospice or palliative care, who is receiving medication-assisted treatment or any other medication for opioid-use disorder, who is a patient with a mental health condition, or who, as determined by the clinical judgment of a health care professional, is in an emergency situation.

(ii) Notwithstanding division (B) of section 3796.01 of the Revised Code, medical marijuana shall not be considered a schedule II controlled substance.

(C) With respect to the provision of telehealth services, all of the following apply:

(1) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an initial visit if the appropriate standard of care for an initial visit is satisfied.

(2) A health care professional may deny a patient telehealth services and, instead, require the patient to undergo an in-person visit.

(3) When providing telehealth services in accordance with this section, a health care professional shall comply with all requirements under state and federal law regarding the protection of patient information. A health care professional shall ensure that any username or password information and any electronic communications between the professional and a patient are securely transmitted and stored.

(4) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an annual visit if the appropriate standard of care for an annual visit is satisfied.

(5) In the case of a health care professional who is a physician, physician assistant, or advanced practice registered nurse, both of the following apply:

(a) The professional may provide telehealth services to a patient located outside of this state if permitted by the laws of the state in which the patient is located.

(b) The professional may provide telehealth services through the use of medical devices that enable remote monitoring, including such activities as monitoring a patient's blood pressure, heart rate, or glucose level.

(D) When a patient has consented to receiving telehealth services, the health care professional who provides those services is not liable in damages under any claim made on the basis that the services do not meet the same standard of care that would apply if the services were provided in-person.

(E)(1) A health care professional providing ~~telemedicine~~ telehealth services shall not charge a patient or a health plan issuer covering telehealth services under section 3902.30 of the Revised Code any of the following: a facility fee, an origination fee, or any fee associated with the cost of the equipment used at the provider site to provide ~~telemedicine~~ telehealth services ~~to a health plan issuer covering telemedicine services under section 3902.30 of the Revised Code~~.

A health care professional providing telehealth services may charge a health plan issuer for durable medical equipment used at a patient or client site.

(2) A health care professional may negotiate with a health plan issuer to establish a reimbursement rate for fees associated with the administrative costs incurred in providing

telehealth services as long as a patient is not responsible for any portion of the fee.

(3) A health care professional providing telehealth services shall obtain a patient's consent before billing for the cost of providing the services, but the requirement to do so applies only once.

(F) Nothing in this section limits or otherwise affects any other provision of the Revised Code that requires a health care professional who is not a physician to practice under the supervision of, in collaboration with, in consultation with, or pursuant to the referral of another health care professional.

(G) It is the intent of the general assembly, through the amendments to this section, to expand access to and investment in telehealth services in this state in congruence with the expansion and investment in telehealth services made during the COVID-19 pandemic.

Sec. 4753.20. An audiologist or speech-language pathologist may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4755.90. An occupational therapist or physical therapist may provide telehealth services in accordance with section 4743.09 of the Revised Code.

An occupational therapy assistant or physical therapist assistant may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4757.50. A professional clinical counselor, independent social worker, or independent marriage and family therapist may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4758.80. An independent chemical dependency counselor may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4759.20. A dietitian may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4761.30. A respiratory care professional may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4778.30. A genetic counselor may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4783.20. A certified Ohio behavior analyst may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 5119.368. (A) As used in this section, "telehealth services" has the same meaning as in section 4743.09 of the Revised Code.

(B) Each community mental health services provider and community addiction services provider shall establish written policies and procedures describing how the provider will ensure that staff persons assisting clients with receiving telehealth services or providing telehealth services are fully trained in using equipment necessary for providing the services.

(C) Prior to providing telehealth services to a client, a provider shall describe to the client the potential risks associated with receiving treatment through telehealth services and shall document that the client was provided with the risks and agreed to assume those risks. The risks communicated to a client shall address the following:

(1) Clinical aspects of receiving treatment through telehealth services;

(2) Security considerations when receiving treatment through telehealth services;

(3) Confidentiality for individual and group counseling.

(D) It is the responsibility of the provider, to the extent possible, to ensure contractually that any entity or individuals involved in the transmission of information through telehealth mechanisms guarantee that the confidentiality of the information is protected.

(E) Every provider shall have a contingency plan for providing telehealth services to clients in the event that technical problems occur during the provision of those services.

(F) Providers shall maintain, at a minimum, the following information pertaining to local resources:

(1) The local suicide prevention telephone hotline, if available, or the national suicide prevention telephone hotline.

(2) Contact information for the local police and fire departments.

The provider shall provide the client written information on how to access assistance in a crisis, including one caused by equipment malfunction or failure.

(G) It is the responsibility of the provider to ensure that equipment meets standards sufficient to do the following:

(1) To the extent possible, ensure confidentiality of communication;

(2) Provide for interactive communication between the

provider and the client;

(3) When providing telehealth services using synchronous technology, ensure that video or audio are sufficient to enable real-time interaction between the client and the provider and to ensure the quality of the service provided.

(H) A mental health facility or unit that is serving as a client site shall be maintained in such a manner that appropriate staff persons are on hand at the facility or unit in the event of a malfunction with the equipment used to provide telehealth services.

(I)(1) All telehealth services provided by interactive videoconferencing shall meet both of the following conditions:

(a) Begin with the verification of the client through a name and password or personal identification number when treatment services are being provided;

(b) Be provided in accordance with state and federal law.

(2) When providing telehealth services in accordance with this section, a provider shall comply with all requirements under state and federal law regarding the protection of patient information. Each provider shall ensure that any username or password information and any electronic communications between the provider and a client are securely transmitted and stored.

(J) The department of mental health and addiction services may adopt rules as it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by the department are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

Sec. 5164.291. The department of medicaid shall establish a credentialing program that includes a credentialing committee to review the competence, professional conduct, and quality of care provided by medicaid providers.

Any activities performed by the credentialing committee shall be considered activities of a peer review committee of a health care entity and shall be subject to sections 2305.25 to 2305.253 of the Revised Code.

The medicaid director may adopt rules under section 5164.02 of the Revised Code as necessary to implement this section. Any rules adopted shall be consistent with the requirements that apply to medicare advantage organizations under 42 C.F.R. 422.204.

Sec. 5164.95. (A) As used in this section, "telehealth service" means a health care service delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.

(B) The department of medicaid shall establish standards for medicaid payments for health care services the department determines are appropriate to be covered by the medicaid program when provided as telehealth services. The standards shall be established in rules adopted under section 5164.02 of the Revised Code.

In accordance with section 5162.021 of the Revised Code, the medicaid director shall adopt rules authorizing the directors of other state agencies to adopt rules regarding the medicaid coverage of telehealth services under programs administered by the other state agencies. Any such rules adopted

by the medicaid director or the directors of other state agencies are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(C)(1) To the extent permitted under rules adopted under section 5164.02 of the Revised Code and applicable federal law, the following practitioners are eligible to provide telehealth services covered pursuant to this section:

(a) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(b) A psychologist or school psychologist licensed under Chapter 4732. of the Revised Code or under rules adopted in accordance with sections 3301.07 and 3319.22 of the Revised Code;

(c) A physician assistant licensed under Chapter 4730. of the Revised Code;

(d) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner licensed under Chapter 4723. of the Revised Code;

(e) An independent social worker, independent marriage and family therapist, or professional clinical counselor licensed under Chapter 4757. of the Revised Code;

(f) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;

(g) A supervised practitioner or supervised trainee;

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(i) An audiology aide or speech-language pathology aide, as defined in section 4753.072 of the Revised Code, or an individual holding a conditional license under section 4753.071 of the Revised Code;

(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.

(l) A dietitian licensed under Chapter 4759. of the Revised Code;

(m) A chiropractor licensed under Chapter 4734. of the Revised Code;

(n) A pharmacist licensed under Chapter 4729. of the Revised Code;

(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;

(p) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;

(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;

(s) A practitioner who provides services through a medicaid school program;

(t) Subject to section 5119.368 of the Revised Code, a

practitioner authorized to provide services and supports certified under section 5119.36 of the Revised Code through a community mental health services provider or community addiction services provider;

(u) Any other practitioner the medicaid director considers eligible to provide telehealth services.

(2) In accordance with division (B) of this section and to the extent permitted under rules adopted under section 5164.02 of the Revised Code and applicable federal law, the following provider types are eligible to submit claims for medicaid payments for providing telehealth services:

(a) Any practitioner described in division (C)(1) of this section, except for those described in divisions (C)(1)(g), (i), and (k) of this section;

(b) A professional medical group;

(c) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(d) A rural health clinic;

(e) An ambulatory health care clinic;

(f) An outpatient hospital;

(g) A medicaid school program;

(h) Subject to section 5119.368 of the Revised Code, a community mental health services provider or community addiction services provider that offers services and supports certified under section 5119.36 of the Revised Code;

(i) Any other provider type the medicaid director

considers eligible to submit the claims for payment.

(D)(1) When providing telehealth services under this section, a practitioner shall comply with all requirements under state and federal law regarding the protection of patient information. A practitioner shall ensure that any username or password information and any electronic communications between the practitioner and a patient are securely transmitted and stored.

(2) When providing telehealth services under this section, every practitioner site shall have access to the medical records of the patient at the time telehealth services are provided.

Section 2. That existing sections 3902.30, 4723.94, 4731.251, 4731.252, 4731.253, 4731.2910, 4731.30, 4732.33, and 5164.95 of the Revised Code are hereby repealed.

Section 3. That Section 3 of S.B. 9 of the 130th General Assembly (as amended by H.B. 49 of the 132nd General Assembly) be amended to read as follows:

Sec. 3. (A) During the period beginning on January 1, 2014, and expiring January 1, ~~2022~~2026, the operation of sections 1751.15, 1751.16, 1751.17, 3923.122, 3923.58, 3923.581, 3923.582, 3923.59, 3924.07, 3924.08, 3924.09, 3924.10, 3924.11, 3924.111, 3924.12, 3924.13, and 3924.14 of the Revised Code are suspended. The suspension shall take effect in accordance with the following:

(1) Carriers shall not be required to offer open enrollment coverage under the Ohio Open Enrollment Program on or after January 1, 2014. In addition, carriers shall not reinsure any insurance policies with the Ohio Health Reinsurance Program during the suspension of the Program on or after January 1,

2014.

(2) Notwithstanding this section, the Board of Directors of the Ohio Health Reinsurance Program shall continue to have all of the authority and protection provided by sections 3924.07 to 3924.14 of the Revised Code during the period beginning January 1, 2014, and ending December 31, 2014, in order to wind up the affairs of the Ohio Health Reinsurance Program. This shall include, but is not limited to, the receipt, processing, and payment of all claims incurred on or before January 1, 2014, assessments needed to fund the wind up of the Program, the refund of any excess assessments, and the preparation of final audited financial statements and tax returns.

(3) With respect to an open enrollment or conversion policy or contract issued prior to January 1, 2014, a carrier may terminate such policy or contract on or after January 1, 2014, if the carrier does both of the following:

(a) Provides notice of termination to the policy or contract holder at the time the policy is issued or at least ninety days prior to the termination;

(b) Offers the policy or contract holder the option to purchase other coverage offered by the insurer to be effective at the time of the termination.

(4) Carriers shall not be required to include any option to convert coverage as required by sections 1751.16, 1751.17, and 3923.122 of the Revised Code in any policy or contract issued on or after January 1, 2014.

(B) If the amendments made by 42 U.S.C. 300gg-1 and 300gg-6, regarding the requirements related to health insurance coverage become ineffective prior to the expiration of the

suspension on January 1, ~~2022~~2026, then sections 1751.15, 1751.16, 1751.17, 3923.122, 3923.58, 3923.581, 3923.582, 3923.59, 3924.07, 3924.08, 3924.09, 3924.10, 3924.11, 3924.111, 3924.12, 3924.13, and 3924.14 of the Revised Code, in either their present form or as they are later amended, again become operational.

Section 4. That existing Section 3 of S.B. 9 of the 130th General Assembly (as amended by H.B. 49 of the 132nd General Assembly) is hereby repealed.

Section 5. Section 3902.30 of the Revised Code, as amended by this act, applies to health benefit plans, as defined in section 3922.01 of the Revised Code, that are in effect on the effective date of the amendment to that section and to plans that are issued, renewed, modified, or amended on or after the effective date of that amendment.

Section 6. Beginning on the effective date of this section, a health care professional licensing board, as defined in section 4743.09 of the Revised Code, may suspend the enforcement of any rules that the board has in effect on the effective date of this section regarding the provision of telehealth and in-person services by a health care professional under the board's jurisdiction, and requirements for the prescribing of controlled substances, while the board amends or adopts new rules that are consistent with the provisions of this act.