

**As Reported by the Senate Health, Human Services and Medicaid
Committee**

133rd General Assembly

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Sub. H. B. No. 365

Representative Manning, G.

**Cosponsors: Representatives Carruthers, Lanese, Richardson, Roemer, Rogers,
Seitz, Stein**

Senator Huffman, S.

A BILL

To amend sections 4758.20, 4758.42, 5164.751, and 1
5167.01 and to enact sections 3902.50, 3902.51, 2
4729.49, and 5167.123 of the Revised Code to 3
revise the requirements for a chemical 4
dependency counselor II license and to prohibit 5
a health plan issuer or Medicaid managed care 6
organization from taking certain actions with 7
respect to reimbursements to 340B covered 8
entities. 9

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

Section 1. That sections 4758.20, 4758.42, 5164.751, and 10
5167.01 be amended and sections 3902.50, 3902.51, 4729.49, and 11
5167.123 of the Revised Code be enacted to read as follows: 12

Sec. 3902.50. As used in this section and section 3902.51 13
of the Revised Code: 14

(A) "340B covered entity" and "third-party administrator" 15

have the same meanings as in section 5167.01 of the Revised Code. 16
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(B) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code. 18
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(C) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code. 20
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Sec. 3902.51. (A) On and after the effective date of this section, a contract entered into between a health plan issuer, including a third-party administrator, and a 340B covered entity shall not contain any of the following provisions: 22
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(1) A reimbursement rate for a prescription drug that is less than the national average drug acquisition cost rate for that drug as determined by the United States centers for medicare and medicaid services, measured at the time the drug is administered or dispensed, or, if no such rate is available at that time, a reimbursement rate that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. 1395w-3a(c)(6)(B); 26
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(2) A dispensing fee reimbursement amount that is less than the reimbursement amount provided to a terminal distributor of dangerous drugs under section 5164.753 of the Revised Code; 34
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(3) A fee that is not imposed on a health care provider that is not a 340B covered entity; 37
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(4) A fee amount that exceeds the fee amount for a health care provider that is not a 340B covered entity. 39
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(B) No health plan issuer or third-party administrator making payments pursuant to a health benefit plan shall discriminate against a 340B covered entity in a manner that 41
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prevents or interferes with an enrollee's choice to receive a 44
prescription drug from a 340B covered entity or its contracted 45
pharmacies. 46

(C) Any provision of a contract entered into between a 47
health plan issuer and a 340B covered entity that is contrary to 48
division (A) of this section is unenforceable and shall be 49
replaced with the dispensing fee or reimbursement rate that 50
applies for health care providers that are not 340B covered 51
entities. 52

Sec. 4729.49. (A) As used in this section, "340B covered 53
entity," "medicaid managed care organization," and "third-party 54
administrator" have the same meanings as in section 5167.01 of 55
the Revised Code. 56

(B) A contract between a terminal distributor of dangerous 57
drugs and a 340B covered entity shall require the terminal 58
distributor to comply with division (C) of this section. 59

(C) When paying a 340B covered entity for a dangerous drug 60
dispensed to a patient, a terminal distributor shall pay to the 61
340B covered entity the full reimbursement amount the terminal 62
distributor receives from the patient and the patient's health 63
insurer, including a third-party administrator or medicaid 64
managed care organization, except that the terminal distributor 65
may deduct from the full reimbursement amount a fee agreed on in 66
writing by the terminal distributor and the 340B covered entity. 67

Sec. 4758.20. (A) The chemical dependency professionals 68
board shall adopt rules to establish, specify, or provide for 69
all of the following: 70

(1) Fees for the purposes authorized by section 4758.21 of 71
the Revised Code; 72

(2) If the board, pursuant to section 4758.221 of the Revised Code, elects to administer examinations for individuals seeking to act as substance abuse professionals in a U.S. department of transportation drug and alcohol testing program, the board's administration of the examinations;	73 74 75 76 77
(3) For the purpose of section 4758.23 of the Revised Code, codes of ethical practice and professional conduct for individuals who hold a license, certificate, or endorsement issued under this chapter;	78 79 80 81
(4) For the purpose of section 4758.24 of the Revised Code, all of the following:	82 83
(a) Good moral character requirements for an individual who seeks or holds a license, certificate, or endorsement issued under this chapter;	84 85 86
(b) The documents that an individual seeking such a license, certificate, or endorsement must submit to the board;	87 88
(c) Requirements to obtain the license, certificate, or endorsement that are in addition to the requirements established under sections 4758.39, 4758.40, 4758.41, 4758.42, 4758.43, 4758.44, 4758.45, 4758.46, 4758.47, and 4758.48 of the Revised Code. The additional requirements may include preceptorships.	89 90 91 92 93
(d) The period of time that an individual whose registered applicant certificate has expired must wait before applying for a new registered applicant certificate.	94 95 96
(5) For the purpose of section 4758.28 of the Revised Code, requirements for approval of continuing education courses of study for individuals who hold a license, certificate, or endorsement issued under this chapter;	97 98 99 100

(6) For the purpose of section 4758.30 of the Revised Code, the intervention for and treatment of an individual holding a license, certificate, or endorsement issued under this chapter whose abilities to practice are impaired due to abuse of or dependency on alcohol or other drugs or other physical or mental condition;

(7) Requirements governing reinstatement of a suspended or revoked license, certificate, or endorsement under division (B) of section 4758.30 of the Revised Code, including requirements for determining the amount of time an individual must wait to apply for reinstatement;

(8) For the purpose of section 4758.31 of the Revised Code, methods of ensuring that all records the board holds pertaining to an investigation remain confidential during the investigation;

(9) Criteria for employees of the board to follow when performing their duties under division (B) of section 4758.35 of the Revised Code;

(10) For the purpose of division (A)(1) of section 4758.39 and division (A)(1) of section 4758.40 of the Revised Code, course requirements for a degree in a behavioral science or nursing that shall, at a minimum, include at least forty semester hours in all of the following courses:

(a) Theories of counseling and psychotherapy;

(b) Counseling procedures;

(c) Group process and techniques;

(d) Relationship therapy;

(e) Research methods and statistics;

(f) Fundamentals of assessment and diagnosis, including measurement and appraisal;	129 130
(g) Psychopathology;	131
(h) Human development;	132
(i) Cultural competence in counseling;	133
(j) Ethics.	134
(11) For the purpose of division (A) (2) of section 4758.39 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have and the number of those hours that must be in clinical supervisory experience;	135 136 137 138 139
(12) For the purpose of division (A) (3) of section 4758.39, division (A) (3) of section 4758.40, division (A) (3) of section 4758.41, and division <u>divisions</u> (A) (3) <u>and</u> (D) (3) of section 4758.42 of the Revised Code, both of the following:	140 141 142 143
(a) The number of hours of training in chemical dependency an individual must have;	144 145
(b) Training requirements for chemical dependency that shall, at a minimum, include qualifications for the individuals who provide the training and the content areas covered in the training.	146 147 148 149
(13) For the purpose of division (A) (2) of section 4758.40, division (A) (2) of section 4758.41, and division (A) (2) of section 4758.42 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have;	150 151 152 153 154
(14) For the purpose of division (B) (2) (b) of section	155

4758.40 and division (B) (2) of section 4758.41 of the Revised Code, requirements for the forty clock hours of training on the version of the diagnostic and statistical manual of mental disorders that is current at the time of the training, including the number of the clock hours that must be on substance-related disorders, the number of the clock hours that must be on chemical dependency conditions, and the number of the clock hours that must be on awareness of other mental and emotional disorders;

(15) For the purpose of division (A) (1) of section 4758.41 of the Revised Code, course requirements for a degree in a behavioral science or nursing;

(16) For the purpose of division (C) (2) of section 4758.42 of the Revised Code, education requirements for chemical dependency;

(17) For the purpose of division (C) (3) of section 4758.42 of the Revised Code, requirements for practicum experience in chemical dependency;

(18) For the purpose of division (A) of section 4758.43 of the Revised Code, both of the following:

(a) The number of hours of training in chemical dependency counseling that an individual must have;

(b) Training requirements for chemical dependency counseling that shall, at a minimum, include qualifications for the individuals who provide the training and the content areas covered in the training.

~~(17)~~(19) For the purpose of division (A) (1) of section 4758.44 of the Revised Code, the number of hours of compensated work experience in prevention services that an individual must

have and the number of those hours that must be in administering	185
or supervising the services;	186
(18) <u>(20)</u> For the purpose of division (A) (2) of section	187
4758.44 of the Revised Code, the field of study in which an	188
individual must obtain at least a bachelor's degree;	189
(19) <u>(21)</u> For the purpose of division (A) (3) of section	190
4758.44, division (A) (3) of section 4758.45, and division (D) of	191
section 4758.46 of the Revised Code, both of the following:	192
(a) The number of hours of prevention-related education	193
that an individual must have;	194
(b) Requirements for prevention-related education.	195
(20) <u>(22)</u> For the purpose of division (A) (4) of section	196
4758.44 of the Revised Code, the number of hours of	197
administrative or supervisory education that an individual must	198
have;	199
(21) <u>(23)</u> For the purpose of division (A) (1) of section	200
4758.45 of the Revised Code, the number of hours of compensated	201
or volunteer work, field placement, intern, or practicum	202
experience in prevention services that an individual must have	203
and the number of those hours that must be in planning or	204
delivering the services;	205
(22) <u>(24)</u> For the purpose of division (A) (2) of section	206
4758.45 of the Revised Code, the field of study in which an	207
individual must obtain at least an associate's degree;	208
(23) <u>(25)</u> For the purpose of division (C) of section	209
4758.46 of the Revised Code, the number of hours of compensated	210
or volunteer work, field placement, intern, or practicum	211
experience in prevention services that an individual must have;	212

(24) <u>(26)</u> Standards for the one hundred hours of	213
compensated work or supervised internship in gambling disorder	214
direct clinical experience required by division (B) (2) of	215
section 4758.48 of the Revised Code;	216
(25) <u>(27)</u> For the purpose of section 4758.51 of the	217
Revised Code, continuing education requirements for individuals	218
who hold a license, certificate, or endorsement issued under	219
this chapter;	220
(26) <u>(28)</u> For the purpose of section 4758.51 of the	221
Revised Code, the number of hours of continuing education that	222
an individual must complete to have an expired license,	223
certificate, or endorsement restored under section 4758.26 of	224
the Revised Code;	225
(27) <u>(29)</u> For the purpose of divisions (A) and (B) of	226
section 4758.52 of the Revised Code, training requirements for	227
chemical dependency counseling;	228
(28) <u>(30)</u> The duties, which may differ, of all of the	229
following:	230
(a) An independent chemical dependency counselor-clinical	231
supervisor licensed under this chapter who supervises a chemical	232
dependency counselor III under section 4758.56 of the Revised	233
Code;	234
(b) An independent chemical dependency counselor-clinical	235
supervisor, independent chemical dependency counselor, or	236
chemical dependency counselor III licensed under this chapter	237
who supervises a chemical dependency counselor assistant under	238
section 4758.59 of the Revised Code;	239
(c) A prevention consultant or prevention specialist	240
certified under this chapter or independent chemical dependency	241

counselor-clinical supervisor, independent chemical dependency 242
counselor, or chemical dependency counselor III licensed under 243
this chapter who supervises a prevention specialist assistant or 244
registered applicant under section 4758.61 of the Revised Code. 245

~~(29)~~ (31) The duties of an independent chemical dependency 246
counselor licensed under this chapter who holds the gambling 247
disorder endorsement who supervises a chemical dependency 248
counselor III with the gambling disorder endorsement under 249
section 4758.62 of the Revised Code. 250

~~(30)~~ (32) Anything else necessary to administer this 251
chapter. 252

(B) All rules adopted under this section shall be adopted 253
in accordance with Chapter 119. of the Revised Code and any 254
applicable federal laws and regulations. 255

(C) When it adopts rules under this section, the board may 256
consider standards established by any national association or 257
other organization representing the interests of those involved 258
in chemical dependency counseling or prevention services. 259

Sec. 4758.42. An individual seeking a chemical dependency 260
counselor II license shall meet the requirements of division (A) 261
~~or, (B), or (C)~~ of this section or, until three years after the 262
effective date of this amendment, division (A), (B), (C), or (D) 263
of this section. 264

(A) To meet the requirements of this division, an 265
individual must meet all of the following requirements: 266

(1) Hold from an accredited educational institution an 267
associate's degree in a behavioral science or nursing or a 268
bachelor's degree in any field; 269

(2) Have not less than the number of hours specified in	270
rules adopted under section 4758.20 of the Revised Code of	271
compensated work or supervised internship experience in any of	272
the following, not less than twenty per cent of which are in	273
chemical dependency counseling:	274
(a) Chemical dependency services, substance abuse	275
services, or both types of services;	276
(b) The practice of psychology, as defined in section	277
4732.01 of the Revised Code;	278
(c) The practice of professional counseling, the practice	279
of social work, or the practice of marriage and family therapy,	280
all as defined in section 4757.01 of the Revised Code.	281
(3) Have a minimum of the number of hours specified in	282
rules adopted under section 4758.20 of the Revised Code of	283
training in chemical dependency that meets the requirements	284
specified in those rules;	285
(4) Pass one or more examinations administered pursuant to	286
section 4758.22 of the Revised Code for the purpose of	287
determining competence to practice as a chemical dependency	288
counselor II.	289
(B) To meet the requirement of this division, an	290
individual must hold, on December 23, 2002, a certificate or	291
credentials that were accepted under former section 3793.07 of	292
the Revised Code as authority to practice as a certified	293
chemical dependency counselor II.	294
<u>(C) To meet the requirements of this division, an</u>	295
<u>individual must meet all of the following requirements:</u>	296
<u>(1) Hold from an accredited educational institution an</u>	297

<u>associate's or bachelor's degree in either of the following with</u>	298
<u>a specialization in chemical dependency counseling:</u>	299
<u>(a) A behavioral science;</u>	300
<u>(b) Nursing.</u>	301
<u>(2) Have a minimum of one hundred eighty hours of</u>	302
<u>education in chemical dependency that meets the requirements</u>	303
<u>specified in rules adopted under section 4758.20 of the Revised</u>	304
<u>Code;</u>	305
<u>(3) While holding a valid chemical dependency counselor</u>	306
<u>assistant certificate, have successfully completed at least one</u>	307
<u>semester of practicum experience in chemical dependency that</u>	308
<u>meets the requirements specified in rules adopted under section</u>	309
<u>4758.20 of the Revised Code and includes at least sixteen hours</u>	310
<u>per week of practicum experience, at least two hours per week of</u>	311
<u>which is supervised practicum experience;</u>	312
<u>(4) Have at least one thousand hours of compensated work</u>	313
<u>experience as a chemical dependency counselor assistant;</u>	314
<u>(5) Provide to the chemical dependency professionals board</u>	315
<u>a written recommendation from an individual who supervised the</u>	316
<u>individual's practice of chemical dependency counseling as a</u>	317
<u>chemical dependency counselor assistant as required by division</u>	318
<u>(B) of section 4758.59 of the Revised Code;</u>	319
<u>(6) Pass one or more examinations administered pursuant to</u>	320
<u>section 4758.22 of the Revised Code for the purpose of</u>	321
<u>determining competence to practice as a chemical dependency</u>	322
<u>counselor II.</u>	323
<u>(D) To meet the requirements of this division, an</u>	324
<u>individual must meet all of the following requirements:</u>	325

<u>(1) Since at least December 31, 2008, continuously have</u>	326
<u>done both of the following:</u>	327
<u>(a) Held a valid chemical dependency counselor assistant</u>	328
<u>certificate;</u>	329
<u>(b) Practiced chemical dependency counseling while under</u>	330
<u>supervision as required by division (B) of section 4758.59 of</u>	331
<u>the Revised Code.</u>	332
<u>(2) Provide to the board a written recommendation from an</u>	333
<u>individual who supervised the individual's practice of chemical</u>	334
<u>dependency counseling as a chemical dependency counselor</u>	335
<u>assistant;</u>	336
<u>(3) Have a minimum of the number of hours specified in</u>	337
<u>rules adopted under section 4758.20 of the Revised Code of</u>	338
<u>training in chemical dependency that meets the requirements</u>	339
<u>specified in those rules;</u>	340
<u>(4) Pass one or more examinations administered pursuant to</u>	341
<u>section 4758.22 of the Revised Code for the purpose of</u>	342
<u>determining competence to practice as a chemical dependency</u>	343
<u>counselor II.</u>	344
Sec. 5164.751. (A) As used in this section, "state maximum	345
allowable cost" means the per unit amount the medicaid program	346
pays a terminal distributor of dangerous drugs for a prescribed	347
drug included in the state maximum allowable cost program	348
established under division (B) of this section. "State maximum	349
allowable cost" excludes dispensing fees and copayments,	350
coinsurance, or other cost-sharing charges, if any.	351
(B) The <u>Subject to section 5167.123 of the Revised Code,</u>	352
<u>the medicaid director shall establish a state maximum allowable</u>	353
<u>cost program for purposes of managing medicaid payments to</u>	354

terminal distributors of dangerous drugs for prescribed drugs 355
identified by the director pursuant to this division. The 356
director shall do all of the following with respect to the 357
program: 358

(1) Identify and create a list of prescribed drugs to be 359
included in the program. 360

(2) Update the list of prescribed drugs described in 361
division (B) (1) of this section on a weekly basis. 362

(3) Review the state maximum allowable cost for each 363
prescribed drug included on the list described in division (B)
(1) of this section on a weekly basis. 364
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Sec. 5167.01. As used in this chapter: 366

(A) "340B covered entity" means an entity described in 367
section 340B(a) (4) of the "Public Health Service Act," 42 U.S.C. 368
256b(a) (4) and includes any pharmacy under contract with the 369
entity to dispense drugs on behalf of the entity. 370

(B) "Affiliated company" means an entity, including a 371
third-party payer or specialty pharmacy, with common ownership, 372
members of a board of directors, or managers, or that is a 373
parent company, subsidiary company, jointly held company, or 374
holding company with respect to the other entity. 375

~~(B)~~ (C) "Care management system" means the system 376
established under section 5167.03 of the Revised Code. 377

~~(C)~~ (D) "Controlled substance" has the same meaning as in 378
section 3719.01 of the Revised Code. 379

~~(D)~~ (E) "Dual eligible individual" has the same meaning as 380
in section 5160.01 of the Revised Code. 381

~~(E)~~ (F) "Emergency services" has the same meaning as in 382
the "Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u- 383
2(b)(2). 384

~~(F)~~ (G) "Enrollee" means a medicaid recipient who 385
participates in the care management system and enrolls in a 386
medicaid MCO plan. 387

~~(G)~~ (H) "ICDS participant" has the same meaning as in 388
section 5164.01 of the Revised Code. 389

~~(H)~~ (I) "Medicaid managed care organization" means a 390
managed care organization under contract with the department of 391
medicaid pursuant to section 5167.10 of the Revised Code. 392

~~(I)~~ (J) "Medicaid MCO plan" means a plan that a medicaid 393
managed care organization, pursuant to its contract with the 394
department of medicaid under section 5167.10 of the Revised 395
Code, makes available to medicaid recipients participating in 396
the care management system. 397

~~(J)~~ (K) "Medicaid waiver component" has the same meaning 398
as in section 5166.01 of the Revised Code. 399

~~(K)~~ (L) "Network provider" has the same meaning as in 400
42 C.F.R. 438.2. 401

~~(L)~~ (M) "Nursing facility services" has the same meaning 402
as in section 5165.01 of the Revised Code. 403

~~(M)~~ (N) "Part B drug" means a drug or biological described 404
in section 1842(o)(1)(C) of the "Social Security Act," 42 U.S.C. 405
1395u(o)(1)(C). 406

~~(N)~~ (O) "Pharmacy benefit manager" has the same meaning as 407
in section 3959.01 of the Revised Code. 408

~~(O)~~ (P) "Practice of pharmacy" has the same meaning as in 409
section 4729.01 of the Revised Code. 410

~~(P)~~ (Q) "Prescribed drug" has the same meaning as in 411
section 5164.01 of the Revised Code. 412

~~(Q)~~ (R) "Prior authorization requirement" has the same 413
meaning as in section 5160.34 of the Revised Code. 414

~~(R)~~ (S) "Provider" means any person or government entity 415
that furnishes services to a medicaid recipient enrolled in a 416
medicaid MCO plan, regardless of whether the person or entity 417
has a provider agreement. 418

~~(S)~~ (T) "Provider agreement" has the same meaning as in 419
section 5164.01 of the Revised Code. 420

~~(T)~~ (U) "State pharmacy benefit manager" means the 421
pharmacy benefit manager selected by and under contract with the 422
medicaid director under section 5167.24 of the Revised Code. 423

~~(U)~~ (V) "Third-party administrator" means any person who 424
adjusts or settles claims on behalf of an insuring entity in 425
connection with life, dental, health, prescription drugs, or 426
disability insurance or self-insurance programs and includes a 427
pharmacy benefit manager. 428

Sec. 5167.123. (A) No contract between a medicaid managed 429
care organization, including a third-party administrator, and a 430
340B covered entity shall contain any of the following 431
provisions: 432

(1) A payment rate for a prescribed drug that is less than 433
the national average drug acquisition cost rate for that drug as 434
determined by the United States centers for medicare and 435
medicaid services, measured at the time the drug is administered 436

or dispensed, or, if no such rate is available at that time, a 437
reimbursement rate that is less than the wholesale acquisition 438
cost of the drug, as defined in 42 U.S.C. 1395w-3a(c)(6)(B); 439

(2) A fee that is not imposed on a health care provider 440
that is not a 340B covered entity; 441

(3) A fee amount that exceeds the amount for a health care 442
provider that is not a 340B covered entity. 443

(B) The organization, or its contracted third-party 444
administrators, shall not discriminate against a 340B covered 445
entity in a manner that prevents or interferes with a medicaid 446
recipient's choice to receive a prescription drug from a 340B 447
covered entity or its contracted pharmacies. 448

(C) Any provision of a contract entered into between the 449
organization and a 340B covered entity that is contrary to 450
division (A) of this section is unenforceable and shall be 451
replaced with the dispensing fee or payment rate that applies 452
for health care providers that are not 340B covered entities. 453

Section 2. That existing sections 4758.20, 4758.42, 454
5164.751, and 5167.01 of the Revised Code are hereby repealed. 455