A BILL

To amend section 4123.01 and to enact sections 3792.05, 3792.06, 3792.07, 3792.08, 4123.87, and 4765.60 of the Revised Code to address COVID-19 vaccine requirements for employees and students; to extend certain timelines for qualified civil immunity and expand immunity to include hearing aid dealers and hearing aid fitters; to authorize emergency medical technicians to administer COVID-19 tests; to expressly cover COVID-19 vaccine injuries under the workers' compensation system; and to repeal sections 3792.05, 3792.06, 3792.07, and 3792.08 of the Revised Code on June 30, 2023.

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

Section 1. That section 4123.01 be amended and sections 3792.05, 3792.06, 3792.07, 3792.08, 4123.87, and 4765.60 of the Revised Code be enacted to read as follows:

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

(1) "Children's hospital" has the same meaning as in
section 3722.01 of the Revised Code.

(2) "Hospital" has the same meaning as in section 3722.01 of the Revised Code, except that a hospital does not include a children's hospital.

(3) "Private college" has the same meaning as in section 3365.01 of the Revised Code.

(4) "School" means either or both of the following:

(a) A chartered nonpublic school as defined in section 3310.01 of the Revised Code;

(b) A public school as defined in section 3792.04 of the Revised Code.

(5) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B)(1) A school, private college, or state institution of higher education shall not require a student to receive a COVID-19 vaccine for which the United States food and drug administration has not issued a biologics license.

(2) For purposes of this section, a biologics license issued by the United States food and drug administration is not the same as an emergency use authorization granted by the United States food and drug administration.

(C) In the event a school, private college, or state institution of higher education requires a student to receive a COVID-19 vaccine for which the United States food and drug administration has issued a biologics license, both of the following apply:

(1) The student may satisfy the vaccination requirement by
doing either of the following:

(a) Receiving the vaccine;

(b) Receiving a COVID-19 vaccine that is available under an emergency use authorization.

(2) Subject to divisions (D) and (E) of this section, the student is exempt from the vaccination requirement for any of the following reasons:

(a) Medical contraindications;

(b) Natural immunity;

(c) Reasons of conscience, including religious convictions.

(D)(1) To claim an exemption as described in division (C)(2)(a) of this section, a student shall submit to the school, private college, or state institution of higher education a written statement signed by the student's primary care provider. The student shall not be required to submit any additional information beyond the written statement.

(2) To claim an exemption as described in division (C)(2)(b) of this section, a student shall submit written documentation to the school, private college, or state institution of higher education that the student has been tested for the presence of COVID-19 antibodies in a form or manner recognized by the medical community and, at the time of testing, had COVID-19 antibodies in an amount at least equal to or greater than those conferred by a COVID-19 vaccine that has been issued a biologics license.

The department of health shall adopt rules establishing the frequency with which a student shall be retested.
determine whether the student's COVID-19 antibody presence remains at least equal to or greater than those conferred by a COVID-19 vaccine that has been issued a biologics license. Until the department adopts the rules, the student shall not be required to submit any additional information beyond the initial written documentation.

(3) To claim an exemption as described in division (C)(2) (c) of this section, a student shall submit to the school, private college, or state institution of higher education a written statement and shall not be required to submit any additional information beyond the written statement.

(E)(1) The exemptions described in division (C)(2) of this section do not apply to a student who, as part of the student's course of study, undergoes instruction or training at either of the following that is owned or operated by, or affiliated with, a private college or state institution of higher education:

(a) A children's hospital;

(b) An intensive care or critical care unit of a hospital.

(2) Nothing in this section shall be construed to limit, diminish, or otherwise affect any provision of federal law relating to employment discrimination.

(F)(1) A student who is exempt from COVID-19 vaccination as described in division (C) of this section is not responsible for any costs or fees associated with measures to prevent the spread of COVID-19 required of the student by the school, private college, or state institution of higher education, including testing for active infection and masking.

(2) In the case of a student who is exempt from COVID-19 vaccination because of natural immunity, the student is
As Reported by the House Health Committee

responsible for any costs or fees associated with demonstrating natural immunity to the school, private college, or state institution of higher education.

(G) A student may commence a mandamus action in accordance with Chapter 2731. of the Revised Code to obtain a judgment ordering a school, private college, or state institution of higher education to comply with this section. The court may award reasonable attorney's fees to the prevailing party.

Sec. 3792.06. (A) As used in this section:

(1) "Political subdivision" means a county, township, municipal corporation, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" also includes a board of health of a city or general health district.

(2) "Proof of COVID-19 vaccination" means a paper document or digital application available on a smartphone, tablet, or other device, that demonstrates that an individual has been vaccinated against COVID-19, including through the use of a scannable code.

(3) "State agency" means any organized agency, board, body, commission, department, institution, office, or other entity established by the laws of the state for the exercise of any function of state government. "State agency" does not include a court.

(B) A facility owned by a political subdivision or state agency shall not require an individual to show proof of COVID-19 vaccination in order for the individual to gain admission to or enter the facility.
Sec. 3792.07. (A) As used in this section and section 3792.08 of the Revised Code:

(1) "Employer" means any person who has one or more employees. "Employer" includes an agent of an employer, the state or any agency or instrumentality of the state, and any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality thereof.

(2) "Children's hospital" has the same meaning as in section 3722.01 of the Revised Code.

(3) "Hospital" has the same meaning as in section 3722.01 of the Revised Code, except that a hospital does not include a children's hospital.

(B)(1) No employer shall require an employee to receive a vaccine for which the United States food and drug administration has not issued a biologics license.

(2) For purposes of this section, a biologics license issued by the United States food and drug administration is not the same as an emergency use authorization granted by the United States food and drug administration.

(C) In the event an employer requires an employee to receive a COVID-19 vaccine for which the United States food and drug administration has issued a biologics license, both of the following apply:

(1) The employee may satisfy the vaccination requirement by doing either of the following:

(a) Receiving the vaccine;

(b) Receiving a COVID-19 vaccine that is available under
an emergency use authorization.

(2) Except as provided in division (F) of this section, and subject to divisions (D) and (E) of this section, an employee who is employed by an employer on or before the effective date of this section is exempt from the vaccination requirement for any of the following reasons:

(a) Medical contraindications;

(b) Natural immunity;

(c) Reasons of conscience, including religious convictions.

(D)(1) To claim an exemption as described in division (C)(2)(a) of this section, an employee shall submit to the employer a written statement signed by the employee’s primary care provider and shall not be required to submit any additional information beyond the written statement.

(2) To claim an exemption described in division (C)(2)(b) of this section, an employee shall submit written documentation to the employer that the employee has been tested for the presence of COVID-19 antibodies in a form or manner recognized by the medical community and at the time of testing, had COVID-19 antibodies in an amount at least equal to or greater than those conferred by a COVID-19 vaccine that has been issued a biologics license.

The department of health shall adopt rules establishing the frequency with which an employee shall be retested to determine whether the employee’s COVID-19 antibody presence remains at least equal to or greater than those conferred by a COVID-19 vaccine that has been issued a biologics license. Until such time as the department adopts the rules, the employee shall
not be required to submit any additional information beyond the initial written documentation.

(3) To claim an exemption described under division (C)(2)(c) of this section, an employee shall submit to the employer a written statement and shall not be required to submit any additional information beyond the written statement.

(E) An employee who is exempt from COVID-19 vaccination as described in division (C)(2) of this section is not responsible for any costs or fees associated with any measures required of the employee by the employer to prevent the spread of COVID-19, including testing for active infection and masking.

(2) In the case of an employee who is exempt from COVID-19 vaccination because of natural immunity, the employee is responsible for any costs or fees associated with demonstrating natural immunity to the employer.

(F)(1) The exemptions in division (C)(2) of this section do not apply to any of the following:

(a) An employee employed in a children's hospital;

(b) An employee employed in an intensive care or critical care unit of a hospital;

(c) An employee who begins employment after the effective date of this section.

(2) This section does not apply to an employer other than a hospital that, as a regular part of its business, conducts research on, develops, handles, administers, transports, or stores infectious organisms.

(3) Nothing in this section shall be construed to limit, diminish, or otherwise affect any provision of Chapter 4112 of
the Revised Code or any federal law relating to employment discrimination.

(F) Nothing in this section impedes or in any way diminishes the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish terms and other conditions of employment related to COVID-19 vaccines. However, no provision of a collective bargaining agreement entered into before, on, or after the effective date of this section that relates to COVID-19 vaccines applies to a person who is not a party to the agreement.

Sec. 3792.08. (A) A violation of section 3792.07 of the Revised Code is an unlawful discriminatory practice relating to employment as defined in section 4112.01 of the Revised Code. Except as provided in division (B) of this section, an employee who is injured by an alleged violation of section 3792.07 of the Revised Code may file a complaint with the Ohio civil rights commission in accordance with the requirements specified in section 4112.051 and 4112.052 of the Revised Code. The commission shall follow the procedures specified in that section for complaints filed for violations of section 3792.07 of the Revised Code regarding that complaint, except, if the commission determines after a hearing described in section 4112.051 of the Revised Code, that a violation has occurred, the commission's order shall be limited to an order that the employer cease and desist from the unlawful discriminatory practice relating to employment and back pay, if applicable. The commission may award reasonable attorney's fees to the prevailing party.

(B) An employee of the state or a political subdivision of the state may commence a mandamus action in accordance with
Chapter 2731. of the Revised Code to obtain a judgment ordering the employer to comply with section 3792.07 of the Revised Code. The court may award reasonable attorney's fees to the prevailing party. A person is prohibited from bringing an action under this division if the person filed a complaint with the Ohio civil rights commission under division (A) of this section.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education.

As used in division (A)(1)(a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:

(i) Off-duty peace officers. As used in division (A)(1)(a)
(i) of this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department.

(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code.

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter.

(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply:

(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;
(ii) The person is required by the other contracting party to have particular training;

(iii) The person's services are integrated into the regular functioning of the other contracting party;

(iv) The person is required to perform the work personally;

(v) The person is hired, supervised, or paid by the other contracting party;

(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;

(vii) The person's hours of work are established by the other contracting party;

(viii) The person is required to devote full time to the business of the other contracting party;

(ix) The person is required to perform the work on the premises of the other contracting party;

(x) The person is required to follow the order of work set by the other contracting party;

(xi) The person is required to make oral or written reports of progress to the other contracting party;

(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;

(xiii) The person's expenses are paid for by the other contracting party;

(xiv) The person's tools and materials are furnished by the other contracting party;
(xv) The person is provided with the facilities used to perform services;

(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;

(xvii) The person is not performing services for a number of employers at the same time;

(xviii) The person does not make the same services available to the general public;

(xix) The other contracting party has a right to discharge the person;

(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.

Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or who is a self-insuring employer and who has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.

(d) Every person who operates a vehicle or vessel in the performance of services for or on behalf of a motor carrier transporting property, unless all of the following factors apply
to the person:

(i) The person owns the vehicle or vessel that is used in performing the services for or on behalf of the carrier, or the person leases the vehicle or vessel under a bona fide lease agreement that is not a temporary replacement lease agreement. For purposes of this division, a bona fide lease agreement does not include an agreement between the person and the motor carrier transporting property for which, or on whose behalf, the person provides services.

(ii) The person is responsible for supplying the necessary personal services to operate the vehicle or vessel used to provide the service.

(iii) The compensation paid to the person is based on factors related to work performed, including on a mileage-based rate or a percentage of any schedule of rates, and not solely on the basis of the hours or time expended.

(iv) The person substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper.

(v) The person enters into a written contract with the carrier for whom the person is performing the services that describes the relationship between the person and the carrier to be that of an independent contractor and not that of an employee.

(vi) The person is responsible for substantially all of the principal operating costs of the vehicle or vessel and equipment used to provide the services, including maintenance, fuel, repairs, supplies, vehicle or vessel insurance, and personal expenses, except that the person may be paid by the
carrier the carrier's fuel surcharge and incidental costs, including tolls, permits, and lumper fees.

(vii) The person is responsible for any economic loss or economic gain from the arrangement with the carrier.

(2) "Employee" does not mean any of the following:

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;

(b) Any officer of a family farm corporation;

(c) An individual incorporated as a corporation;

(d) An officer of a nonprofit corporation, as defined in section 1702.01 of the Revised Code, who volunteers the person's services as an officer;

(e) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code;

(f)(i) A qualifying employee described in division (A)(14)(a) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;

(ii) A qualifying employee described in division (A)(14)(b) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period on critical infrastructure owned or used by the employee's employer;
(iii) As used in division (A)(2)(f) of this section, "critical infrastructure," "disaster response period," "disaster work," and "qualifying employee" have the same meanings as in section 5703.94 of the Revised Code.

Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A)(1)(d) or (A)(2)(a), (b), (c), or (e) of this section in accordance with rules adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors. If an employer is a partnership, sole proprietorship, individual incorporated as a corporation, or family farm corporation, such employer may elect to include as an "employee" within this chapter, any member of such partnership, the owner of the sole proprietorship, the individual incorporated as a corporation, or the officers of the family farm corporation. Nothing in this section shall prohibit a partner, sole proprietor, or any person excluded from the definition of "employee" pursuant to division (A)(2)(a), (b), (c), or (e) of this section from electing to be included as an "employee" under this chapter in accordance with rules adopted by the administrator, with the advice and consent of the board.

In the event of an election, the employer or person electing coverage shall serve upon the bureau of workers' compensation written notice naming the person to be covered and include the person's remuneration for premium purposes in all future payroll reports. No partner, sole proprietor, or person excluded from the definition of "employee" pursuant to division (A)(1)(d) or (A)(2)(a), (b), (c), or (e) of this section, shall receive benefits or compensation under this chapter until the bureau receives written notice of the election permitted by this section.
For informational purposes only, the bureau shall prescribe such language as it considers appropriate, on such of its forms as it considers appropriate, to advise employers of their right to elect to include as an "employee" within this chapter a sole proprietor, any member of a partnership, or a person excluded from the definition of "employee" under division (A)(1)(d) or (A)(2)(a), (b), (c), or (e) of this section, that they should check any health and disability insurance policy, or other form of health and disability plan or contract, presently covering them, or the purchase of which they may be considering, to determine whether such policy, plan, or contract excludes benefits for illness or injury that they might have elected to have covered by workers' compensation.

(B)(1) "Employer" means:

(a) The state, including state hospitals, each county, municipal corporation, township, school district, and hospital owned by a political subdivision or subdivisions other than the state;

(b) Every person, firm, professional employer organization, alternate employer organization, and private corporation, including any public service corporation, that (i) has in service one or more employees or shared employees regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter.

All such employers are subject to this chapter. Any member of a firm or association, who regularly performs manual labor in or about a mine, factory, or other establishment, including a
household establishment, shall be considered an employee in
determining whether such person, firm, or private corporation,
or public service corporation, has in its service, one or more
employees and the employer shall report the income derived from
such labor to the bureau as part of the payroll of such
employer, and such member shall thereupon be entitled to all the
benefits of an employee.

(2) "Employer" does not include a franchisor with respect
to the franchisor's relationship with a franchisee or an
employee of a franchisee, unless the franchisor agrees to assume
that role in writing or a court of competent jurisdiction
determines that the franchisor exercises a type or degree of
control over the franchisee or the franchisee's employees that
is not customarily exercised by a franchisor for the purpose of
protecting the franchisor's trademark, brand, or both. For
purposes of this division, "franchisor" and "franchisee" have
the same meanings as in 16 C.F.R. 436.1.

(C) "Injury" includes any injury, whether caused by
external accidental means or accidental in character and result,
received in the course of, and arising out of, the injured
employee's employment. "Injury" includes an injury or disability
caused by a COVID-19 vaccine, if the employer required the
employee to receive the vaccine as a condition of employment.
"Injury" does not include:

(1) Psychiatric conditions except where the claimant's
psychiatric conditions have arisen from an injury or
occupational disease sustained by that claimant or where the
claimant's psychiatric conditions have arisen from sexual
conduct in which the claimant was forced by threat of physical
harm to engage or participate;
(2) Injury or disability caused primarily by the natural
deterioration of tissue, an organ, or part of the body;

(3) Injury or disability incurred in voluntary
participation in an employer-sponsored recreation or fitness
activity if the employee signs a waiver of the employee's right
to compensation or benefits under this chapter prior to engaging
in the recreation or fitness activity;

(4) A condition that pre-existed an injury unless that
pre-existing condition is substantially aggravated by the
injury. Such a substantial aggravation must be documented by
objective diagnostic findings, objective clinical findings, or
objective test results. Subjective complaints may be evidence of
such a substantial aggravation. However, subjective complaints
without objective diagnostic findings, objective clinical
findings, or objective test results are insufficient to
substantiate a substantial aggravation.

(D) "Child" includes a posthumous child and a child
legally adopted prior to the injury.

(E) "Family farm corporation" means a corporation founded
for the purpose of farming agricultural land in which the
majority of the voting stock is held by and the majority of the
stockholders are persons or the spouse of persons related to
each other within the fourth degree of kinship, according to the
rules of the civil law, and at least one of the related persons
is residing on or actively operating the farm, and none of whose
stockholders are a corporation. A family farm corporation does
not cease to qualify under this division where, by reason of any
device, bequest, or the operation of the laws of descent or
distribution, the ownership of shares of voting stock is
transferred to another person, as long as that person is within
the degree of kinship stipulated in this division.

(F) "Occupational disease" means a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general.

(G) "Self-insuring employer" means an employer who is granted the privilege of paying compensation and benefits directly under section 4123.35 of the Revised Code, including a board of county commissioners for the sole purpose of constructing a sports facility as defined in section 307.696 of the Revised Code, provided that the electors of the county in which the sports facility is to be built have approved construction of a sports facility by ballot election no later than November 6, 1997.

(H) "Private employer" means an employer as defined in division (B)(1)(b) of this section.

(I) "Professional employer organization" has the same meaning as in section 4125.01 of the Revised Code.

(J) "Public employer" means an employer as defined in division (B)(1)(a) of this section.

(K) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of gender; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is
sufficient to complete vaginal or anal intercourse.

(L) "Other-states' insurer" means an insurance company that is authorized to provide workers' compensation insurance coverage in any of the states that permit employers to obtain insurance for workers' compensation claims through insurance companies.

(M) "Other-states' coverage" means both of the following:

(1) Insurance coverage secured by an eligible employer for workers' compensation claims of employees who are in employment relationships localized in a state other than this state or those employees' dependents;

(2) Insurance coverage secured by an eligible employer for workers' compensation claims that arise in a state other than this state where an employer elects to obtain coverage through either the administrator or an other-states' insurer.

(N) "Limited other-states coverage" means insurance coverage provided by the administrator to an eligible employer for workers' compensation claims of employees who are in an employment relationship localized in this state but are temporarily working in a state other than this state, or those employees' dependents.

(O) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.

(P) "Alternate employer organization" has the same meaning as in section 4133.01 of the Revised Code.

Sec. 4123.87. For claims arising during the period beginning on the effective date of this section and ending June 30, 2023, both of the following apply:
(A) No claimant is entitled to compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for an injury caused by a COVID-19 vaccine required by an employer as a condition of employment if the claimant received compensation under the "National Childhood Vaccine Injury Act of 1986," 42 U.S.C. 300aa-1, et seq. or the "The Public Readiness and Emergency Preparedness (PREP) Act," 42 U.S.C. 247d-6d.

(B) If a claimant receives an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for an injury described in division (A) of this section and also received compensation as described in division (A)(2) of this section, the administrator of workers' compensation or any self-insuring employer, by any lawful means, may collect from the claimant any of the following:

(1) The amount of compensation or benefits paid to or on behalf of the claimant by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award;

(2) Any interest, attorney's fees, and costs the administrator or the self-insuring employer incurs in collecting that payment.

Sec. 4765.60. Notwithstanding any conflicting provision of the Revised Code, an emergency medical technician-basic, emergency medical technician-intermediate, and emergency medical technician-paramedic who has received proper training may administer a test for COVID-19 and collect and label test specimens.

Section 2. That existing section 4123.01 of the Revised
Code is hereby repealed.

Section 3. That sections 3792.05, 3792.06, 3792.07, and 3792.08 of the Revised Code are hereby repealed, effective June 30, 2023.

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

(1) "Advanced practice registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as an advanced practice registered nurse.

(2) "Athletic trainer" means an individual licensed under Chapter 4755. of the Revised Code to practice athletic training.

(3) "Audiologist" means an individual licensed under Chapter 4753. of the Revised Code to practice audiology.

(4) "Behavioral health provider" means a provider of alcohol and drug addiction services, mental health services, or other behavioral health services and includes the following providers:

(a) An independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor III, and chemical dependency counselor II, licensed under Chapter 4758. of the Revised Code, and a chemical dependency counselor assistant, prevention consultant, prevention specialist, prevention specialist assistant, and registered applicant, certified under that chapter;

(b) A licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist who holds a current, valid license issued
under Chapter 4757. of the Revised Code;

(c) A psychologist.

(5) "Board of health" means the 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.

(6) "Chiropractor" means an individual who is authorized under Chapter 4734. of the Revised Code to practice chiropractic.

(7) "Dental hygienist" means an individual licensed under Chapter 4715. of the Revised Code to practice as a dental hygienist.

(8) "Dentist" has the same meaning as in section 2305.231 of the Revised Code.

(9) "Direct support professional" means an individual employed by an agency to provide direct care to individuals with developmental disabilities.

(10) "Disaster" means any occurrence of widespread personal injury or loss of life that results from any natural or technological phenomenon or act of a human, or an epidemic and is declared to be a disaster by the federal government, the state government, or a political subdivision of this state.

(11) "Emergency" has the same meaning as in section 5502.21 of the Revised Code.

(12) "Emergency medical technician" means an EMT-basic, an EMT-I, or a paramedic.

(13) "EMT-basic" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised
Code to practice as an emergency medical technician-basic.  

(14) "EMT-I" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-intermediate.

(15) "Facility" means an institution or setting where health care services are provided, including, without limitation, a hospital, inpatient, ambulatory, surgical, emergency care, urgent care, treatment, laboratory, adult day-care, residential care, residential treatment, long-term care, or intermediate care facility, or a facility for individuals with developmental disabilities; a physician's office; a developmental, diagnostic, or imaging center; a rehabilitation or therapeutic health setting; a federally qualified health center or federally qualified health center look-alike; or any modular field treatment facility or alternative care site designated for temporary use for the purposes of providing health care services in response to a disaster or emergency.

(16) "Facility for individuals with developmental disabilities" means a facility that provides services to two or more unrelated individuals with developmental disabilities in a residential setting, such as an institution for mental disease or a residential facility licensed under section 5123.19 of the Revised Code.

(17) "Federally qualified health center" and "federally qualified health center look-alike" have the same meanings as in section 3701.047 of the Revised Code.

(18) "Gross negligence" means a lack of care so great that it appears to be a conscious indifference to the rights of
others.

(19) "Health care professional" means an advanced practice registered nurse, a registered nurse, a licensed practical nurse, a pharmacist, a dentist, a dental hygienist, an optometrist, a physician, a physician assistant, a chiropractor, a physical therapist, an occupational therapist, an athletic trainer, a speech-language pathologist, an audiologist, a laboratory worker, a massage therapist, or a respiratory care professional.

(20) "Health care provider" means a health care professional, health care worker, direct support professional, behavioral health provider, hearing aid dealer, hearing aid fitter, or emergency medical technician or a home health agency, hospice care program, home and community-based services provider, or facility, including any agent, board member, committee member, employee, employer, officer, or volunteer of the agency, program, provider, or facility acting in the course of the agent's, board member's, committee member's, employee's, employer's, officer's, or volunteer's service or employment.

(21) "Health care services" means services rendered by a health care provider for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including the provision of any medication, medical equipment, or other medical product. "Health care services" includes personal care services and experimental treatments.

(22) "Health care worker" means a person other than a health care professional or emergency medical technician who provides medical, dental, or other health care services under the direction of a health care professional authorized to direct the individual's activities. "Health care worker" includes a
medical technician, medical assistant, dental assistant, occupational therapy assistant, physical therapist assistant, orderly, nurse aide, and any other individual acting in a similar capacity.

(23) "Hearing aid dealer" and "hearing aid fitter" have the same meanings as in section 4747.01 of the Revised Code.

(24) "Home and community-based services provider" means a provider of services under a home and community-based services medicaid waiver component.

(25) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.

(26) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.

(27) "Hospital" and "medical claim" have the same meanings as in section 2305.113 of the Revised Code.

(28) "Licensed practical nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as a licensed practical nurse.

(29) "Long-term care facility" has the same meaning as in section 3701.74 of the Revised Code.

(30) "Massage therapist" means an individual licensed under section 4731.15 of the Revised Code to practice massage therapy.

(31) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(32) "Occupational therapist" means an individual who holds a current license or limited certificate under Chapter
4755. of the Revised Code to practice occupational therapy.

(33) "Occupational therapy assistant" means an individual who holds a license or limited permit under Chapter 4755. of the Revised Code to practice as an occupational therapy assistant.

(34) "Optometrist" means a person who is licensed under Chapter 4725. of the Revised Code to practice optometry.

(35) "Paramedic" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-paramedic.

(36) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(37) "Pharmacist" means an individual who holds a current, valid license issued under Chapter 4729. of the Revised Code to practice as a pharmacist.

(38) "Physical therapist" means an individual licensed under Chapter 4755. of the Revised Code to practice physical therapy.

(39) "Physical therapist assistant" means an individual licensed under Chapter 4755. of the Revised Code to practice as a physical therapist assistant.

(40) "Physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(41) "Physician assistant" means an individual who is authorized under Chapter 4730. of the Revised Code to practice as a physician assistant.
(42) "Psychologist" means an individual who is licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code.

(43) "Reckless disregard" means, as it applies to a given health care provider rendering health care services, emergency medical services, first-aid treatment, or other emergency professional care, conduct by which, with heedless indifference to the consequences, the health care provider disregards a substantial and unjustifiable risk that the health care provider's conduct is likely to cause, at the time those services or that treatment or care were rendered, an unreasonable risk of injury, death, or loss to person or property.

(44) "Registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as a registered nurse.

(45) "Respiratory care professional" has the same meaning as in section 4761.01 of the Revised Code.

(46) "Speech-language pathologist" means an individual licensed under Chapter 4753. of the Revised Code to practice speech-language pathology.

(47) "Tort action" means a civil action for damages for injury, death, or loss to person or property and includes claims arising under resident or patient bills of rights and contractual claims arising out of statutory or regulatory requirements applicable to health care providers. "Tort action" includes an action on a medical claim.

(B)(1) Subject to division (C)(3) of this section, a health care provider that provides health care services,
emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical equipment or product, as a result of or in response to a disaster or emergency is not subject to professional disciplinary action and is not liable in damages to any person or government agency in a tort action for injury, death, or loss to person or property that allegedly arises from any of the following:

(a) An act or omission of the health care provider in the health care provider's provision, withholding, or withdrawal of those services;

(b) Any decision related to the provision, withholding, or withdrawal of those services;

(c) Compliance with an executive order or director's order issued during and in response to the disaster or emergency.

(2) Division (B)(1) of this section does not apply in a tort action if the health care provider's action, omission, decision, or compliance constitutes a reckless disregard for the consequences so as to affect the life or health of the patient or intentional misconduct or willful or wanton misconduct on the part of the person against whom the action is brought.

(3) Division (B)(1) of this section does not apply in a professional disciplinary action if the health care provider's action, omission, decision, or compliance constitutes gross negligence.

(4) A health care provider is not subject to professional disciplinary action and is not liable in damages to any person or government agency in a tort action for injury, death, or loss to person or property that allegedly arises because the provider
was unable to treat, diagnose, or test the person for any illness, disease, or condition, including the inability to perform any elective procedure, due to an executive or director's order or an order of a board of health of a city or general health district issued in relation to an epidemic or pandemic disease or other public health emergency.

(C)(1) This section does not create a new cause of action or substantive legal right against a health care provider.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care provider may be entitled in connection with the provision of health care services, emergency medical services, first-aid treatment, or other emergency professional care, including the provision of medication, medical equipment, or other medical product.

(3) This section does not grant an immunity from tort or other civil liability or a professional disciplinary action to a health care provider for actions that are outside the skills, education, and training of the health care provider, unless the health care provider undertakes the action in good faith and in response to a lack of resources caused by a disaster or emergency.

(4) This section does not affect any legal responsibility of a health care provider to comply with any applicable law of this state or rule of an agency of this state.

(5) Division (B) of this section applies only to the provision, withholding, or withdrawal of health care services, emergency medical services, first-aid treatment, or other
emergency professional care, including the provision of any
medication or other medical equipment or product, decisions
related to such services or care, or compliance with an
executive order or director's order by a health care provider as
a result of or in response to a disaster or emergency and
through the duration of the disaster or emergency.

(D) If the immunity described in division (B) of this
section does not apply, no class action shall be brought against
any health care provider alleging liability for damages for
injury, death, or loss to person or property on a cause of
action specified in that division.

(E) This section applies from September 30, 2021, through
June 30, 2023, and supersedes section 2305.2311 of the Revised
Code during that period.

Section 5. (A) No civil action for damages for injury,
death, or loss to person or property shall be brought against
any person if the cause of action on which the civil action is
based, in whole or in part, is that the injury, death, or loss
to person or property is caused by the exposure to, or the
transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-
2, or any mutation thereof, unless it is established that the
exposure to, or the transmission or contraction of, any of those
viruses or mutations was by reckless conduct or intentional
misconduct or willful or wanton misconduct on the part of the
person against whom the action is brought.

(B) For purposes of division (A) of this section, a
government order, recommendation, or guideline shall neither
create nor be construed as creating a duty of care upon any
person that may be enforced in a cause of action or that may
create a new cause of action or substantive legal right against
any person with respect to the matters contained in the
government order, recommendation, or guideline. A presumption
exists that any such government order, recommendation, or
guideline is not admissible as evidence that a duty of care, a
new cause of action, or a substantive legal right has been
established.

(C) If the immunity described in division (A) of this
section does not apply, no class action shall be brought against
any person alleging liability for damages for injury, death, or
loss to person or property on a cause of action specified in
that division.

(D) As used in this section:

(1) "MERS-CoV" means the coronavirus that causes middle
east respiratory syndrome.

(2) "Person" has the same meaning as in section 1.59 of
the Revised Code and includes a school, a for-profit or
nonprofit entity, a governmental entity, a religious entity, or
a state institution of higher education.

(3) "Reckless conduct" means conduct by which, with
heedless indifference to the consequences, the person disregards
a substantial and unjustifiable risk that the person's conduct
is likely to cause an exposure to, or a transmission or
contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2, or any
mutation thereof, or is likely to be of a nature that results in
an exposure to, or a transmission or contraction of, any of
those viruses or mutations. A person is reckless with respect to
circumstances in relation to causing an exposure to, or a
transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-
2, or any mutation thereof, when, with heedless indifference to
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the consequences, the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

(4) "SARS-CoV" means the coronavirus that causes severe acute respiratory syndrome.

(5) "SARS-CoV-2" means the novel coronavirus that causes coronavirus disease 2019 (COVID-19).

(6) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(E) This section applies from September 30, 2021, through June 30, 2023.

Section 6. Sections 4 and 5 of this act, regarding temporary qualified civil immunities, are remedial in nature and apply retroactively to acts, omissions, conduct, decisions, or compliance from September 30, 2021, through June 30, 2023.

Section 7. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.