

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 311

Representatives Hagan, Miller

A B I L L

To amend section 2921.13 and to enact sections 1
5110.01, 5110.02, 5110.04, 5110.05, 5110.06, 2
5110.07, 5110.10, 5110.11, 5110.12, 5110.13, 3
5110.14, 5110.15, 5110.16, 5110.20, 5110.21, 4
5110.22, 5110.23, 5110.25, 5110.26, 5110.27, 5
5110.28, 5110.29, 5110.32, 5110.33, 5110.35, 6
5110.351, 5110.352, 5110.36, 5110.37, 5110.38, 7
5110.39, 5110.45, 5110.46, 5110.47, 5110.48, 8
5110.49, 5110.50, 5110.55, 5110.56, and 5110.57 of 9
the Revised Code to create the Ohio's Best Rx 10
Program. 11

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

Section 1. That section 2921.13 be amended and sections 12
5110.01, 5110.02, 5110.04, 5110.05, 5110.06, 5110.07, 5110.10, 13
5110.11, 5110.12, 5110.13, 5110.14, 5110.15, 5110.16, 5110.20, 14
5110.21, 5110.22, 5110.23, 5110.25, 5110.26, 5110.27, 5110.28, 15
5110.29, 5110.32, 5110.33, 5110.35, 5110.351, 5110.352, 5110.36, 16
5110.37, 5110.38, 5110.39, 5110.45, 5110.46, 5110.47, 5110.48, 17
5110.49, 5110.50, 5110.55, 5110.56, and 5110.57 of the Revised 18
Code be enacted to read as follows: 19

Sec. 2921.13. (A) No person shall knowingly make a false 20

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| statement, or knowingly swear or affirm the truth of a false | 21 |
| statement previously made, when any of the following applies: | 22 |
| (1) The statement is made in any official proceeding. | 23 |
| (2) The statement is made with purpose to incriminate another. | 24 25 |
| (3) The statement is made with purpose to mislead a public official in performing the public official's official function. | 26 27 |
| (4) The statement is made with purpose to <u>obtain an Ohio's best Rx program enrollment card or to</u> secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury. | 28 29 30 31 32 33 34 35 |
| (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement. | 36 37 38 |
| (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths. | 39 40 |
| (7) The statement is in writing on or in connection with a report or return that is required or authorized by law. | 41 42 |
| (8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment. | 43 44 45 46 47 48 49 |
| (9) The statement is made with purpose to commit or | 50 |

facilitate the commission of a theft offense. 51

(10) The statement is knowingly made to a probate court in 52
connection with any action, proceeding, or other matter within its 53
jurisdiction, either orally or in a written document, including, 54
but not limited to, an application, petition, complaint, or other 55
pleading, or an inventory, account, or report. 56

(11) The statement is made on an account, form, record, 57
stamp, label, or other writing that is required by law. 58

(12) The statement is made in connection with the purchase of 59
a firearm, as defined in section 2923.11 of the Revised Code, and 60
in conjunction with the furnishing to the seller of the firearm of 61
a fictitious or altered driver's or commercial driver's license or 62
permit, a fictitious or altered identification card, or any other 63
document that contains false information about the purchaser's 64
identity. 65

(13) The statement is made in a document or instrument of 66
writing that purports to be a judgment, lien, or claim of 67
indebtedness and is filed or recorded with the secretary of state, 68
a county recorder, or the clerk of a court of record. 69

(B) No person, in connection with the purchase of a firearm, 70
as defined in section 2923.11 of the Revised Code, shall knowingly 71
furnish to the seller of the firearm a fictitious or altered 72
driver's or commercial driver's license or permit, a fictitious or 73
altered identification card, or any other document that contains 74
false information about the purchaser's identity. 75

(C) It is no defense to a charge under division (A)(4) of 76
this section that the oath or affirmation was administered or 77
taken in an irregular manner. 78

(D) If contradictory statements relating to the same fact are 79
made by the offender within the period of the statute of 80
limitations for falsification, it is not necessary for the 81

prosecution to prove which statement was false but only that one 82
or the other was false. 83

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 84
(6), (7), (8), (10), (11), or (13) of this section is guilty of 85
falsification, a misdemeanor of the first degree. 86

(2) Whoever violates division (A)(9) of this section is 87
guilty of falsification in a theft offense. Except as otherwise 88
provided in this division, falsification in a theft offense is a 89
misdemeanor of the first degree. If the value of the property or 90
services stolen is five hundred dollars or more and is less than 91
five thousand dollars, falsification in a theft offense is a 92
felony of the fifth degree. If the value of the property or 93
services stolen is five thousand dollars or more and is less than 94
one hundred thousand dollars, falsification in a theft offense is 95
a felony of the fourth degree. If the value of the property or 96
services stolen is one hundred thousand dollars or more, 97
falsification in a theft offense is a felony of the third degree. 98

(3) Whoever violates division (A)(12) or (B) of this section 99
is guilty of falsification to purchase a firearm, a felony of the 100
fifth degree. 101

(F) A person who violates this section is liable in a civil 102
action to any person harmed by the violation for injury, death, or 103
loss to person or property incurred as a result of the commission 104
of the offense and for reasonable attorney's fees, court costs, 105
and other expenses incurred as a result of prosecuting the civil 106
action commenced under this division. A civil action under this 107
division is not the exclusive remedy of a person who incurs 108
injury, death, or loss to person or property as a result of a 109
violation of this section. 110

Sec. 5110.01. As used in this chapter: 111

(A) "Covered drug" means a drug covered by the Ohio's best Rx program as provided by section 5110.21 of the Revised Code. 112
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(B) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code. 114
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(C) "National drug code number" means the number registered for a drug pursuant to the listing system established by the United States food and drug administration under the "Drug Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 116
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(D) "Ohio's best Rx program participant" or "participant" means an individual determined eligible for the Ohio's best Rx program and holding a valid Ohio's best Rx program enrollment card or the individual's parent, guardian, or custodian when acting on behalf of the participant. 120
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(E) "Participating manufacturer" means a drug manufacturer participating in the Ohio's best Rx program pursuant to an agreement entered into with the department of job and family services under section 5110.20 of the Revised Code. 125
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(F) "Participating terminal distributor" means a terminal distributor of dangerous drugs participating in the Ohio's best Rx program pursuant to an agreement entered into with the department of job and family services under section 5110.10 of the Revised Code. 129
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(G) "Per unit price" means the total amount paid to a terminal distributor of dangerous drugs under a state health benefit plan for one unit of a drug covered by the plan, after rebates, discounts, and other reductions are made. "Per unit price" includes both of the following: 134
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(1) The amount that the state health benefit plan, or other government entity or person authorized to make the payment on behalf of the state health benefit plan, pays to the terminal 139
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| <u>disbributor of dangerous drugs;</u> | 142 |
| <u>(2) The amount that the beneficiary of the state health benefit plan pays to the terminal distributor of dangerous drugs in the form of a copayment, coinsurance, or other cost-sharing charge.</u> | 143 144 145 146 |
| <u>(H) "Per unit rebate" means all rebates, discounts, formulary fees, administrative fees, and other allowances calculated on a drug-by-drug basis that are paid by a drug manufacturer to a state health benefit plan for one unit of a drug dispensed under the plan.</u> | 147 148 149 150 151 |
| <u>(I) "Proportionate administrative cost" means the percentage specified in rules adopted under division (F) of section 5110.35 of the Revised Code.</u> | 152 153 154 |
| <u>(J) "State health benefit plan" means a policy or contract of health care benefits to which any of the following apply:</u> | 155 156 |
| <u>(1) It is provided by a collective bargaining agreement authorized by division (A)(4) of section 4117.03 of the Revised Code.</u> | 157 158 159 |
| <u>(2) It is offered by the department of administrative services to state employees in accordance with section 124.81 or 124.82 of the Revised Code.</u> | 160 161 162 |
| <u>(3) It is offered by a state retirement system to persons receiving a pension, allowance, or other cash benefit based on age and service retirement.</u> | 163 164 165 |
| <u>(K) "State retirement system" means all of the following: the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, and state highway patrol retirement system.</u> | 166 167 168 169 |
| <u>(L) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.</u> | 170 171 |

(M) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code. 172
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(N) "Usual and customary charge" means the amount a participating terminal distributor charges for a covered drug to an individual to whom both of the following apply: 174
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(1) Does not receive a discounted price for the covered drug pursuant to any drug discount program, including the Ohio's best Rx program, the prescription drug discount card program established under section 173.061 of the Revised Code, or a pharmacy assistance program; 177
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(2) No third-party payer or program funded in whole or part with state or federal funds is responsible for all or part of the cost of the drug the distributor dispenses to the individual. 182
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Sec. 5110.02. There is hereby established in the department of job and family services the Ohio's best Rx program. 185
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Sec. 5110.04. (A) An individual who meets all of the following requirements at the time application for the Ohio's best Rx program is made is eligible to participate in the program: 187
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(1) The individual is a resident of this state. 190

(2) The individual's family income does not exceed two hundred fifty per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, or the individual is sixty years of age or older. 191
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(3) The individual does not have outpatient prescription drug coverage paid for in whole or in part by any of the following: 195
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(a) A third-party payer; 197

(b) The medicaid program; 198

(c) Another health plan or pharmacy assistance program that 199

uses state or federal funds to pay part or all of the cost of the 200
individual's outpatient prescription drugs, other than a 201
prescription drug discount card program established under section 202
173.061 of the Revised Code. 203

(4) Except as provided in division (B) of this section, the 204
individual did not have outpatient prescription drug coverage 205
specified in division (A)(3) of this section during any of the 206
four months preceding the month in which the application for the 207
Ohio's best Rx program is made. 208

(5) The individual, or the individual's parent, guardian, or 209
custodian, submits a completed application for the program to the 210
department of job and family services in accordance with section 211
5110.05 of the Revised Code. 212

(B) No individual shall be denied eligibility for the Ohio's 213
best Rx program pursuant to division (A)(4) of this section if the 214
individual, at the time the application for the program is made, 215
is sixty years of age or older or is no longer eligible for 216
outpatient prescription drug coverage because of any of the 217
following: 218

(1) The third-party payer that paid all or part of the 219
coverage filed for bankruptcy under federal bankruptcy laws. 220

(2) The individual is no longer eligible for coverage 221
provided through a retirement plan subject to protection under the 222
"Employee Retirement Income Security Act of 1974," 88 Stat. 832, 223
29 U.S.C. 1001, as amended. 224

(3) The individual is no longer eligible for transitional 225
medicaid benefits under section 5111.023 of the Revised Code. 226

Sec. 5110.05. An individual seeking to participate in the 227
Ohio's best Rx program, or the parent, guardian, or custodian of 228
the individual, shall apply to the department of job and family 229

services annually in accordance with rules adopted under section 230
5110.35 of the Revised Code. The individual, parent, guardian, or 231
custodian shall include with the application documentation 232
specified in the rules to provide verification of the information 233
provided in the application. 234

Sec. 5110.06. The application form for the Ohio's best Rx 235
program shall include a space for the applicant, or applicant's 236
parent, guardian, or custodian, to attest that the information the 237
applicant, parent, guardian, or custodian has provided in the 238
application and the documentation included with the application 239
is, to the best knowledge and belief of the applicant, guardian, 240
or custodian, accurate. The application form shall also include 241
both of the following: 242

(A) A statement printed in bold letters indicating that 243
knowingly making a false statement on the form is falsification 244
under section 2921.13 of the Revised Code, a misdemeanor of the 245
first degree; 246

(B) Information about the medicaid program, including general 247
eligibility requirements, application procedures, and benefits. 248

Sec. 5110.07. The department of job and family services shall 249
make eligibility determinations for the Ohio's best Rx program in 250
accordance with procedures established in rules adopted under 251
section 5110.35 of the Revised Code. The department shall issue a 252
program enrollment card to or on behalf of each individual 253
determined eligible to participate. The card is valid for one year 254
and shall be presented to a participating terminal distributor 255
each time a covered drug is purchased under the program. 256

Sec. 5110.10. A terminal distributor of dangerous drugs may 257
enter into an agreement with the department of job and family 258

services to participate in the Ohio's best Rx program. 259

An agreement entered into under this section shall do all of 260
the following: 261

(A) Specify the amount of time the agreement is to be in 262
effect, which shall be not less than one year from the date the 263
agreement is entered into; 264

(B) Require that the participating terminal distributor 265
charge an Ohio's best Rx program participant the discounted price 266
for each covered drug as determined under section 5110.11 of the 267
Revised Code; 268

(C) Permit the participating terminal distributor to add to 269
the discounted price a professional fee in an amount not to 270
exceed, except as provided in rules adopted under section 5110.35 271
of the Revised Code, three dollars for each supply of a covered 272
drug of up to thirty days; 273

(D) Require the participating terminal distributor to 274
disclose to each participant the amount the participant saves 275
under the program as determined in accordance with section 5110.12 276
of the Revised Code; 277

(E) Prohibit the participating terminal distributor from 278
releasing proprietary information about a covered drug when 279
disclosing savings to a participant under division (D) of this 280
section; 281

(F) Permit the participating terminal distributor to submit a 282
claim to the department under section 5110.13 of the Revised Code 283
for payment from the department under section 5110.14 of the 284
Revised Code for charging a participant the discounted price. 285

Sec. 5110.11. The discounted price for a covered drug that a 286
participating terminal distributor shall charge an Ohio's best Rx 287

program participant shall be determined by multiplying the number 288
of units of the covered drug that the distributor dispenses to the 289
participant by the amount computed under division (D) of section 290
5110.27 of the Revised Code for the covered drug's applicable 291
national drug code number. 292

Sec. 5110.12. The amount that an Ohio's best Rx program 293
participant saves under the program shall be determined as 294
follows: 295

(A) Subtract from the usual and customary charge for the 296
covered drug that the participating terminal distributor dispenses 297
to the participant the amount of the discounted price that the 298
distributor charges the participant for the covered drug as 299
determined under section 5110.11 of the Revised Code; 300

(B) Add to the difference calculated under division (A) of 301
this section the amount of the professional fee, if any, that the 302
distributor charges the participant pursuant to an agreement under 303
section 5110.10 of the Revised Code. 304

Sec. 5110.13. To receive a payment from the department of job 305
and family services under section 5110.14 of the Revised Code for 306
charging an Ohio's best Rx program participant the discounted 307
price for a covered drug determined under section 5110.11 of the 308
Revised Code, a participating terminal distributor shall, not 309
later than thirty days after the sale, submit a claim to the 310
department in accordance with rules adopted under section 5110.35 311
of the Revised Code. The claim shall specify all of the following: 312

(A) The prescription number of the participant's prescription 313
under which the covered drug is dispensed to the participant; 314

(B) The name of, and national drug code number for, the 315
covered drug dispensed to the participant; 316

(C) The number of units of the covered drug dispensed to the participant; 317
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(D) The amount the distributor charged the participant for the covered drug; 319
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(E) The date that the distributor dispensed the covered drug to the participant. 321
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Sec. 5110.14. (A) In accordance with rules adopted under section 5110.35 of the Revised Code, the department of job and family services shall pay a participating terminal distributor for complete and timely claims the distributor submits to the department under section 5110.13 of the Revised Code. The amount to be paid shall be determined as follows: 323
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(1) Multiply the weighted average of the per unit rebates for the covered drug's national drug code number for which the claim is made, as computed under division (A) of section 5110.27 of the Revised Code, by the number of units of the covered drug dispensed to the Ohio's best Rx program participant. 329
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(2) Subtract the proportionate administrative cost from the sum calculated under division (A)(1) of this section. 334
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(B) The department may combine claims from a participating terminal distributor to make aggregate payments under this section to the distributor. 336
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Sec. 5110.15. The department of job and family services may not impose a transaction charge on a participating terminal distributor that submits a claim to the department under section 5110.13 of the Revised Code. 339
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Sec. 5110.16. As used in this section, "transaction" means the dispensing of a covered drug to an Ohio's best Rx program 343
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participant at a discounted price determined under section 5110.11
of the Revised Code.

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A participating terminal distributor that receives a payment
or rebate for a transaction from the manufacturer of a covered
drug shall not seek payment from the department of job and family
services under section 5110.14 of the Revised Code for the same
transaction.

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Sec. 5110.20. A drug manufacturer that manufactures one or
more drugs covered by a state health benefit plan may enter into
an agreement with the department of job and family services under
which the manufacturer agrees to participate in the Ohio's best Rx
program with respect to one or more of those drugs.

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An agreement entered into under this section shall do all of
the following:

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(A) Specify the amount of time the agreement is to be in
effect, which shall be not less than one year from the date the
agreement is entered into;

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(B) Specify which of the manufacturer's drugs are included in
the agreement;

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(C) Require that the manufacturer make a rebate payment to
the department for each drug that is included in the agreement and
dispensed to an Ohio's Rx program participant;

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(D) Require that the rebate be in an amount equal to the
weighted average of the per unit rebates for the drug as computed
under division (A) of section 5110.27 of the Revised Code
multiplied by the number of units dispensed to the participant;

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(E) Require that the manufacturer make the rebate payments to
the department on a quarterly basis or in accordance with a
schedule established by rules adopted under section 5110.35 of the

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Revised Code; 374

(F) On submission by the manufacturer to the department of a 375
request that the department considers reasonable, permit the 376
manufacturer to audit claims submitted under section 5110.13 of 377
the Revised Code. 378

Sec. 5110.21. The Ohio's best Rx program shall cover a drug 379
if an agreement for the drug is in effect pursuant to section 380
5110.20 of the Revised Code. 381

Sec. 5110.22. If a drug manufacturer does not agree to enter 382
into an agreement with the department of job and family services 383
under section 5110.20 of the Revised Code with respect to a drug 384
it manufactures, the department of job and family services shall 385
ask the department of administrative services and each state 386
retirement system to determine whether the drug should be placed, 387
for the following plan year, on a state health benefit plan's 388
prior authorization list. 389

Additions made under this section to prior authorization 390
lists shall be made in accordance with state law and applicable 391
collectively bargained agreements. 392

Sec. 5110.23. The name of a drug manufacturer that does not 393
enter into an agreement under section 5110.20 of the Revised Code 394
for a drug it manufactures that is covered by a state health 395
benefit plan, and the name of that drug, is a public record for 396
the purpose of section 149.43 of the Revised Code. The department 397
of job and family services shall distribute this information to 398
physicians, pharmacists, and other health professionals. 399

Sec. 5110.25. In accordance with section 5110.26 of the 400
Revised Code and rules adopted under section 5110.35 of the 401

Revised Code, the department of administrative services and each 402
state retirement system shall submit the following information to 403
the department of job and family services for each state health 404
benefit plan they offer: 405

(A) The name of the plan; 406

(B) The number of individuals enrolled in the plan; 407

(C) The per unit price for each drug that is covered by the 408
plan and dispensed through means other than a mail order system; 409

(D) The weighted average of the per unit rebates for each 410
drug that is covered by the plan and dispensed through a mail 411
order system or means other than a mail order system. 412

Sec. 5110.26. In submitting information about a drug under 413
section 5110.25 of the Revised Code, the department of 414
administrative services and each state retirement system shall do 415
all of the following: 416

(A) Compute and submit information separately for each of the 417
drug's national drug code numbers; 418

(B) Submit the per unit price information each month and 419
provide for the information to reflect the per unit price for the 420
previous month; 421

(C) Use the number of units for which a per unit rebate is 422
paid in determining the weighted average of the per unit rebates 423
for the drug under the plan; 424

(D) Submit the information regarding the weighted average of 425
the per unit rebates once a year and provide for the information 426
to reflect the weighted average for the previous calendar year. 427

Sec. 5110.27. In accordance with section 5110.28 of the 428
Revised Code and rules adopted under section 5110.35 of the 429

Revised Code, the department of job and family services shall do 430
both of the following for each national drug code number of each 431
covered drug: 432

(A) Once each year, compute the total weighted average of the 433
per unit rebates submitted under division (D) of section 5110.25 434
of the Revised Code; 435

(B) Once each year, subtract the proportionate administrative 436
cost from the total weighted average of the per unit rebates 437
computed under division (A) of this section; 438

(C) Once each month, compute the weighted average of the per 439
unit prices submitted under division (C) of section 5110.25 of the 440
Revised Code; 441

(D) Once each month, subtract the amount computed under 442
division (B) of this section from the weighted average of the per 443
unit prices computed under division (C) of this section. 444

Sec. 5110.28. The department of job and family services shall 445
use the number of individuals enrolled in each state health 446
benefits plan to compute, under division (A) of section 5110.27 of 447
the Revised Code, the total weighted average of the per unit 448
rebates for each national drug code number of a covered drug. 449

Sec. 5110.29. The department of job and family services shall 450
report to each participating terminal distributor the results of 451
the department's computations under division (D) of section 452
5110.27 of the Revised Code in a manner necessary for the 453
distributors to comply with section 5110.11 of the Revised Code. 454

Sec. 5110.32. There is hereby created in the state treasury 455
the Ohio's best Rx program fund. The fund shall consist of both of 456
the following: 457

(A) Rebate payments made by participating manufacturers under section 5110.20 of the Revised Code; 458
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(B) Investment earnings of the fund. 460

Sec. 5110.33. (A) The department of job and family services shall use money in the Ohio's best Rx program fund to do both of the following: 461
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(1) Make payments to participating terminal distributors under section 5110.14 of the Revised Code; 464
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(2) Subject to division (B) of this section, pay the administrative costs of the Ohio's best Rx program, including costs associated with contracted services, computers, and the Ohio's best Rx program council created under section 5110.45 of the Revised Code. 466
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(B) The department may use up to five percent of the money in the Ohio's best Rx program fund that comes from rebate payments made by participating manufacturers under section 5110.20 of the Revised Code to pay administrative costs of the Ohio's best Rx program. The department may use all of the money in the fund that comes from the fund's investment earnings to pay administrative costs of the program. 471
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Sec. 5110.35. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the Ohio's best Rx program. The rules shall provide for all of the following: 478
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(A) For the purpose of section 5110.05 of the Revised Code, the application process for the program and documentation to be included with applications for the purpose of verifying information provided in the applications; 482
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(B) For the purpose of section 5110.07 of the Revised Code, 486

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| <u>eligibility determination procedures;</u> | 487 |
| <u>(C) Subject to section 5110.351 of the Revised Code,</u> | 488 |
| <u>periodically increasing the maximum professional fee that</u> | 489 |
| <u>participating terminal distributors may charge Ohio's best Rx</u> | 490 |
| <u>program participants under section 5110.10 of the Revised Code;</u> | 491 |
| <u>(D) The method for participating terminal distributors to</u> | 492 |
| <u>submit claims to the department under section 5110.13 of the</u> | 493 |
| <u>Revised Code;</u> | 494 |
| <u>(E) The method for making payments to participating terminal</u> | 495 |
| <u>distributors under section 5110.14 of the Revised Code;</u> | 496 |
| <u>(F) Subject to section 5110.352 of the Revised Code, the</u> | 497 |
| <u>percentage that is to be subtracted as the proportionate</u> | 498 |
| <u>administrative cost from both of the following:</u> | 499 |
| <u>(1) For the purpose of division (A)(2) of section 5110.14 of</u> | 500 |
| <u>the Revised Code, the sum calculated under division (A)(1) of</u> | 501 |
| <u>section 5110.14 of the Revised Code;</u> | 502 |
| <u>(2) For the purpose of division (B) of section 5110.27 of the</u> | 503 |
| <u>Revised Code, the total weighted average of the per unit rebates</u> | 504 |
| <u>computed under division (A) of section 5110.27 of the Revised</u> | 505 |
| <u>Code.</u> | 506 |
| <u>(G) If the department determines it is best that</u> | 507 |
| <u>participating manufacturers make rebates under section 5110.20 of</u> | 508 |
| <u>the Revised Code on a basis other than quarterly, a schedule for</u> | 509 |
| <u>payment of the rebates;</u> | 510 |
| <u>(H) The process for the department of administrative services</u> | 511 |
| <u>and state retirement systems to submit the information required by</u> | 512 |
| <u>section 5110.25 of the Revised Code;</u> | 513 |
| <u>(I) Procedures for making computations under section 5110.27</u> | 514 |
| <u>of the Revised Code.</u> | 515 |

Sec. 5110.351. As used in this section, "medicaid dispensing fee" means the dispensing fee established under section 5111.08 of the Revised Code for the medicaid program. 516
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In adopting a rule under division (C) of section 5110.35 of the Revised Code increasing the maximum amount of the professional fee that participating terminal distributors may charge Ohio's best Rx program participants under section 5110.10 of the Revised Code, the department of job and family services shall not increase the professional fee to an amount exceeding the medicaid dispensing fee. 519
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A participating terminal distributor may charge a maximum three dollar professional fee for each supply of a covered drug of up to thirty days regardless of whether the medicaid dispensing fee for that covered drug is less than that amount. The department, however, may not adopt a rule increasing the maximum professional fee for that covered drug until the medicaid dispensing fee for that covered drug exceeds that amount. 526
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Sec. 5110.352. The percentage to be specified in a rule adopted under division (F) of section 5110.35 of the Revised Code as the proportionate administrative cost shall be the same percentage of the money in the Ohio's best Rx program fund coming from rebate payments made by participating manufacturers under section 5110.20 of the Revised Code that the department of job and family services uses pursuant to division (B) of section 5110.33 of the Revised Code to pay for the program's administrative costs. 533
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Sec. 5110.36. Notwithstanding any provision of this chapter, the department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to make adjustments to the Ohio's best Rx program that the department considers appropriate to conform the program to, or coordinate it 541
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with, any federally funded prescription drug program created after 546
the effective date of this section. 547

Sec. 5110.37. The department of job and family services shall 548
undertake outreach efforts to publicize the Ohio's best Rx program 549
and maximize participation in the program. 550

Sec. 5110.38. The department of job and family services may 551
coordinate the Ohio's best Rx program with state health benefit 552
plans to enhance efficiency, reduce the cost of drugs, and 553
maximize the benefits of the Ohio's best Rx program and state 554
health benefit plans. 555

Sec. 5110.39. Not later than April 1, 2005, the department of 556
job and family services shall do all of the following: 557

(A) Create a list of the twenty-five drugs most often 558
dispensed to Ohio's best Rx program participants under the 559
program, using data from the most recent six-month period for 560
which the data is available; 561

(B) Determine the average amount that participating terminal 562
distributors charge, on a date selected by the department, 563
participants for each drug included on the list created under 564
division (A) of this section; 565

(C) Determine, for the date selected for division (B) of this 566
section, the average usual and customary charge of participating 567
terminal distributors for each drug included on the list created 568
under division (A) of this section; 569

(D) By comparing the average charges determined under 570
divisions (B) and (C) of this section, determine the average 571
percentage savings in the amount participating terminal 572
distributors charge Ohio's best Rx program participants for each 573

drug included on the list created under division (A) of this 574
section. 575

Sec. 5110.45. There is hereby created the Ohio's best Rx 576
program council. The council shall advise the department of job 577
and family services on the Ohio's best Rx program. The council may 578
initiate studies to determine whether there are more effective 579
ways to administer the program and provide the department with 580
suggestions for improvements. 581

None of the council's findings, recommendations, or studies 582
shall be released to any person or government entity without the 583
approval of at least a majority of the council's appointed 584
members. 585

Sec. 5110.46. The Ohio's best Rx program council shall 586
consist of the following members: 587

(A) The president of the senate; 588

(B) The speaker of the house of representatives; 589

(C) The minority leader of the senate; 590

(D) The minority leader of the house of representatives; 591

(E) A representative of the Ohio chapter of the American 592
federation of labor-congress of industrial organizations, 593
appointed by the governor from a list of names submitted to the 594
governor by that organization; 595

(F) A representative of the Ohio chapter of the American 596
association of retired persons, appointed by the governor from a 597
list of names submitted to the governor by that organization; 598

(G) A representative of a disability advocacy organization 599
located in the state of Ohio, appointed by the governor from a 600
list of names submitted to the governor by disability advocacy 601

organizations located in the state of Ohio;

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(H) A representative of the Ohio chapter of the united way,
appointed by the governor from a list of names submitted to the
governor by that organization;

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(I) A representative of the Ohio alliance of retired
Americans, appointed by the governor from a list of names
submitted to the governor by that organization;

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(J) Three representatives of research-based drug
manufacturers, appointed by the governor from a list of names
submitted to the governor by the pharmaceutical research and
manufacturers of America.

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Sec. 5110.47. The governor shall make initial appointments to
the Ohio's best Rx program council not later than thirty days
after the effective date of this section. The members appointed by
the governor shall serve at the pleasure of the governor. If an
appointed member's seat becomes vacant, the governor shall fill
the vacancy not later than thirty days after the vacancy occurs
and in the manner provided for the initial appointment.

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Sec. 5110.48. The president of the senate and speaker of the
house of representatives shall serve as co-chairs of the Ohio's
best Rx program council.

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The president of the senate, the minority leader of the
senate, the speaker of the house of representatives, and the
minority leader of the house of representatives may not appoint
designees to serve in their places on the council, unless the
official becomes incapacitated.

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Sec. 5110.49. Members of the Ohio's best Rx program council
shall serve without compensation and shall not be reimbursed for
any expenses associated with their duties on the council.

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Sec. 5110.50. Sections 101.82 to 101.87 of the Revised Code 631
do not apply to the Ohio's best Rx program council. 632

Sec. 5110.55. Information transmitted by or to any of the 633
following for any purpose related to the Ohio's best Rx program is 634
confidential to the extent required by federal and state law: 635

(A) Drug manufacturers; 636

(B) Terminal distributors of dangerous drugs; 637

(C) The department of job and family services; 638

(D) The department of administrative services; 639

(E) The state retirement systems; 640

(F) The state health benefit plans; 641

(G) Ohio's best Rx program participants; 642

(H) Any other government entity or person. 643

Sec. 5110.56. (A) Except as provided by section 5110.57 of 644
the Revised Code, all of the following are trade secrets, as 645
defined in section 1333.61 of the Revised Code, not public records 646
for the purposes of section 149.43 of the Revised Code, and shall 647
not be used, released, published, or disclosed in a form that 648
reveals a specific drug or the identity of a drug manufacturer: 649

(1) Information disclosed in an agreement entered into under 650
section 5110.10 of the Revised Code or in communications related 651
to such an agreement; 652

(2) Information disclosed in an agreement entered into under 653
section 5110.20 of the Revised Code or in communications related 654
to such an agreement; 655

(3) Information that the department of administrative 656
services and state retirement systems submit to the department of 657

job and family services under divisions (C) and (D) of section 5110.25 of the Revised Code; 658
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(4) The amounts computed under divisions (A) and (C) of section 5110.27 of the Revised Code; 660
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(5) The amounts determined under divisions (B) and (C) of section 5110.39 of the Revised Code. 662
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(B) No person or government entity shall use or reveal any information specified in division (A) of this section except as required for the implementation of this chapter. 664
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Sec. 5110.57. Sections 5110.55 and 5110.56 of the Revised Code shall not preclude the department of job and family services from disclosing information necessary for the implementation of this chapter. 667
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Section 2. That existing section 2921.13 of the Revised Code is hereby repealed. 671
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