

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

**128th General Assembly
Regular Session
2009-2010**

Sub. H. B. No. 198

Representatives Lehner, Ujvagi

**Cosponsors: Representatives Grossman, Harris, Jones, Weddington, Foley,
Domenick, Hackett, Burke, Bacon, Blair, Ruhl, Martin, Yuko, Derickson,
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Gerberry, Goyal, Hagan, Koziura, Luckie, Lundy, Maag, McClain, Morgan,
Murray, Phillips, Pillich, Pryor, Reece, Slesnick, Stebelton, Stewart,
Williams, S.
Senator Morano**

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A B I L L

To amend sections 3923.91 and 5111.242 and to enact 1
sections 185.01 to 185.12, 3333.611, and 3333.612 2
of the Revised Code, to amend Section 309.30.25 of 3
Am. Sub. H.B. 1 of the 128th General Assembly, and 4
to amend Section 5 of Sub. H.B. 125 of the 127th 5
General Assembly, as subsequently amended, to 6
establish the Patient Centered Medical Home 7
Education Pilot Project, to authorize 8
implementation of a primary care component of the 9
Choose Ohio First Scholarship Program, to extend 10
the moratorium concerning most favored nation 11
clauses in hospital contracts, to revise the law 12
governing the Medicaid reimbursement for nursing 13
facilities' tax costs, and to declare an 14

emergency.

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

Section 1. That sections 3923.91 and 5111.242 be amended and
sections 185.01, 185.02, 185.03, 185.04, 185.05, 185.06, 185.07,
185.08, 185.09, 185.10, 185.11, 185.12, 3333.611, and 3333.612 of
the Revised Code be enacted to read as follows:

Sec. 185.01. As used in this chapter:

(A) "Advanced practice nurse" has the same meaning as in
section 4723.01 of the Revised Code.

(B) "Collaboration" has the same meaning as in section
4723.01 of the Revised Code.

(C) "Health care coverage and quality council" means the
entity established under section 3923.90 of the Revised Code.

(D) "Patient centered medical home education advisory group"
means the entity established under section 185.03 of the Revised
Code to implement and administer the patient centered medical home
education pilot project.

(E) "Patient centered medical home education pilot project"
means the pilot project established under section 185.02 of the
Revised Code.

Sec. 185.02. (A) There is hereby established the patient
centered medical home education pilot project. The pilot project
shall be implemented and administered by the patient centered
medical home education advisory group.

(B) The pilot project shall be operated to advance medical
education in the patient centered medical home model of care. The
patient centered medical home model of care is an enhanced model

of primary care in which care teams attend to the multifaceted 41
needs of patients, providing whole person comprehensive and 42
coordinated patient centered care. 43

(C) The pilot project shall not be operated in a manner that 44
requires a patient, unless otherwise required by the Revised Code, 45
to receive a referral from a physician in a practice selected for 46
inclusion in the pilot project under section 185.05 of the Revised 47
Code as a condition of being authorized to receive specialized 48
health care services from an individual licensed or certified 49
under Title XLVII of the Revised Code to provide those services. 50

Sec. 185.03. (A) The patient centered medical home education 51
advisory group is hereby created for the purpose of implementing 52
and administering the patient centered medical home pilot project. 53
The advisory group shall develop a set of expected outcomes for 54
the pilot project. 55

(B) The advisory group shall consist of the following voting 56
members: 57

(1) One individual with expertise in the training and 58
education of primary care physicians who is appointed by the dean 59
of the university of Toledo college of medicine; 60

(2) One individual with expertise in the training and 61
education of primary care physicians who is appointed by the dean 62
of the Boonshoft school of medicine at Wright state university; 63

(3) One individual with expertise in the training and 64
education of primary care physicians who is appointed by the 65
president and dean of the northeastern Ohio universities colleges 66
of medicine and pharmacy; 67

(4) One individual with expertise in the training and 68
education of primary care physicians who is appointed by the dean 69
of the Ohio university college of osteopathic medicine; 70

<u>(5) Two individuals appointed by the governing board of the Ohio academy of family physicians;</u>	71 72
<u>(6) One individual appointed by the governing board of the Ohio chapter of the American college of physicians;</u>	73 74
<u>(7) One individual appointed by the governing board of the American academy of pediatrics;</u>	75 76
<u>(8) One individual appointed by the governing board of the Ohio osteopathic association;</u>	77 78
<u>(9) One individual with expertise in the training and education of advanced practice nurses who is appointed by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;</u>	79 80 81 82
<u>(10) One individual appointed by the governing board of the Ohio nurses association;</u>	83 84
<u>(11) One individual appointed by the governing board of the Ohio association of advanced practice nurses;</u>	85 86
<u>(12) A member of the health care coverage and quality council, other than the advisory group member specified in division (C)(2) of this section, appointed by the superintendent of insurance.</u>	87 88 89 90
<u>(C) The advisory group shall consist of the following nonvoting, ex officio members:</u>	91 92
<u>(1) The executive director of the state medical board, or the director's designee;</u>	93 94
<u>(2) The executive director of the board of nursing or the director's designee;</u>	95 96
<u>(3) The chancellor of the Ohio board of regents, or the chancellor's designee;</u>	97 98
<u>(4) The individual within the department of job and family</u>	99

services who serves as the director of medicaid, or the director's 100
designee; 101

(5) The director of health or the director's designee. 102

(D) Advisory group members who are appointed shall serve at 103
the pleasure of their appointing authorities. Terms of office of 104
appointed members shall be three years, except that a member's 105
term ends if the pilot project ceases operation during the 106
member's term. 107

Vacancies shall be filled in the manner provided for original 108
appointments. 109

Members shall serve without compensation, except to the 110
extent that serving on the advisory group is considered part of 111
their regular employment duties. 112

(E) The advisory group shall select from among its members a 113
chairperson and vice-chairperson. The advisory group may select 114
any other officers it considers necessary to conduct its business. 115

A majority of the members of the advisory group constitutes a 116
quorum for the transaction of official business. A majority of a 117
quorum is necessary for the advisory group to take any action, 118
except that when one or more members of a quorum are required to 119
abstain from voting as provided in division (C)(1)(d) or (C)(2)(c) 120
of section 185.05 of the Revised Code, the number of members 121
necessary for a majority of a quorum shall be reduced accordingly. 122

The advisory group shall meet as necessary to fulfill its 123
duties. The times and places for the meetings shall be selected by 124
the chairperson. 125

(F) Sections 101.82 to 101.87 of the Revised Code do not 126
apply to the advisory group. 127

Sec. 185.04. The patient centered medical home education 128
advisory group may appoint an executive director and employ other 129

staff as it considers necessary to fulfill its duties. Until the 130
advisory group identifies an alternative, the Boonshoft school of 131
medicine at Wright state university shall provide administrative 132
support to the advisory group. 133

Sec. 185.05. (A) The patient centered medical home education 134
advisory group shall accept applications for inclusion in the 135
patient centered medical home education pilot project from primary 136
care practices with educational affiliations, as determined by the 137
advisory group, with one or more of the following: 138

(1) The Boonshoft school of medicine at Wright state 139
university; 140

(2) The university of Toledo college of medicine; 141

(3) The northeastern Ohio universities colleges of medicine 142
and pharmacy; 143

(4) The Ohio university college of osteopathic medicine; 144

(5) The college of nursing at the university of Toledo; 145

(6) The Wright state university college of nursing and 146
health; 147

(7) The college of nursing at Kent state university; 148

(8) The university of Akron college of nursing; 149

(9) The school of nursing at Ohio university. 150

(B)(1) Subject to division (C)(1) of this section, the 151
advisory group shall select for inclusion in the pilot project not 152
more than the following number of physician practices: 153

(a) Ten practices affiliated with the Boonshoft school of 154
medicine at Wright state university; 155

(b) Ten practices affiliated with the university of Toledo 156
college of medicine; 157

<u>(c) Ten practices affiliated with the northeastern Ohio</u>	158
<u>universities colleges of medicine and pharmacy;</u>	159
<u>(d) Ten practices affiliated with the centers for osteopathic</u>	160
<u>research and education of the Ohio university college of</u>	161
<u>osteopathic medicine.</u>	162
<u>(2) Subject to division (C)(2) of this section, the advisory</u>	163
<u>group shall select for inclusion in the pilot project not less</u>	164
<u>than the following number of advanced practice nurse primary care</u>	165
<u>practices:</u>	166
<u>(a) One practice affiliated with the college of nursing at</u>	167
<u>the university of Toledo;</u>	168
<u>(b) One practice affiliated with the Wright state university</u>	169
<u>college of nursing and health;</u>	170
<u>(c) One practice affiliated with the college of nursing at</u>	171
<u>Kent state university or the university of Akron college of</u>	172
<u>nursing;</u>	173
<u>(d) One practice affiliated with the school of nursing at</u>	174
<u>Ohio university.</u>	175
<u>(C)(1) All of the following apply with respect to the</u>	176
<u>selection of physician practices under division (B) of this</u>	177
<u>section:</u>	178
<u>(a) The advisory group shall strive to select physician</u>	179
<u>practices in such a manner that the pilot project includes a</u>	180
<u>diverse range of primary care specialties, including practices</u>	181
<u>specializing in pediatrics, geriatrics, general internal medicine,</u>	182
<u>or family medicine.</u>	183
<u>(b) When evaluating an application, the advisory group shall</u>	184
<u>consider the percentage of patients in the physician practice who</u>	185
<u>are part of a medically underserved population, including medicaid</u>	186
<u>recipients and individuals without health insurance.</u>	187

(c) The advisory group shall select not fewer than six practices that serve rural areas of this state, as those areas are determined by the advisory group. 188
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(d) A member of the advisory group shall abstain from participating in any vote taken regarding the selection of a physician practice if the member would receive any financial benefit from having the practice included in the pilot project. 191
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(2) All of the following apply with respect to the selection of advanced practice nurse primary care practices under division (B) of this section: 195
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(a) When evaluating an application, the advisory group shall consider the percentage of patients in the advanced practice nurse primary care practice who are part of a medically underserved population, including medicaid recipients and individuals without health insurance. 198
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(b) If the advisory group determines that it has not received an application from a sufficiently qualified advanced practice nurse primary care practice affiliated with a particular institution specified in division (B)(2) of this section, the advisory group shall make the selections required under that division in such a manner that the greatest possible number of those institutions are represented in the pilot project. To be selected in this manner, a practice remains subject to the eligibility requirements specified in division (B) of section 185.06 of the Revised Code. As specified in division (B)(2) of this section, the number of practices selected for inclusion in the pilot project shall be at least four. 203
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(c) A member of the advisory group shall abstain from participating in any vote taken regarding the selection of an advanced practice nurse primary care practice if the member would receive any financial benefit from having the practice included in 215
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the pilot project. 219

Sec. 185.06. (A) To be eligible for inclusion in the patient 220
centered medical home education pilot project, a physician 221
practice shall meet all of the following requirements: 222

(1) Consist of physicians who are board-certified in family 223
medicine, general pediatrics, or internal medicine, as those 224
designations are issued by a medical specialty certifying board 225
recognized by the American board of medical specialties or 226
American osteopathic association; 227

(2) Be capable of adapting the practice during the period in 228
which the practice receives funding from the patient centered 229
medical home education advisory group in such a manner that the 230
practice is fully compliant with the minimum standards for 231
operation of a patient centered medical home, as those standards 232
are established by the advisory group; 233

(3) Comply with any reporting requirements recommended by the 234
health care coverage and quality council under division (A)(12) of 235
section 3923.91 of the Revised Code; 236

(4) Meet any other criteria established by the advisory group 237
as part of the selection process. 238

(B) To be eligible for inclusion in the pilot project, an 239
advanced practice nurse primary care practice shall meet all of 240
the following requirements: 241

(1) Consist of advanced practice nurses who meet all of the 242
following requirements: 243

(a) Hold a certificate to prescribe issued under section 244
4723.48 of the Revised Code; 245

(b) Are board-certified as a family nurse practitioner or 246
adult nurse practitioner by the American academy of nurse 247
practitioners or American nurses credentialing center, 248

board-certified as a geriatric nurse practitioner or women's health nurse practitioner by the American nurses credentialing center, or is board-certified as a pediatric nurse practitioner by the American nurses credentialing center or pediatric nursing certification board; 249
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(c) Has a collaboration agreement with a physician with board certification as specified in division (A)(1) of this section and who is an active participant on the health care team. 254
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(2) Be capable of adapting the primary care practice during the period in which the practice receives funding from the advisory group in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the advisory group; 257
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(3) Comply with any reporting requirements recommended by the health care coverage and quality council under division (A)(12) of section 3923.91 of the Revised Code; 263
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(4) Meet any other criteria established by the advisory group as part of the selection process. 266
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Sec. 185.07. The patient centered medical home education advisory group shall enter into a contract with each primary care practice selected for inclusion in the patient centered medical home education pilot project. The contract shall specify the terms and conditions for inclusion in the pilot project, including a requirement that the practice provide primary care services to patients and serve as the patients' medical home. The contract shall also require the practice to participate in the training of medical students, advanced practice nursing students, or primary care residents. 268
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Sec. 185.08. The patient centered medical home education 278

pilot project shall include the following services and supports 279
for each primary care practice included in the pilot project: 280

(A) Upon securing adequate funding, the patient centered 281
medical home education advisory group shall provide to each 282
participating primary care practice reimbursement for not more 283
than seventy-five per cent of the cost incurred in purchasing any 284
health information technology required to convert to the patient 285
centered medical home model of care, including the cost incurred 286
for appropriate training and technical support. 287

(B) The physicians, advanced practice nurses, and staff of 288
the practice shall receive comprehensive training on the operation 289
of a patient centered medical home, including assistance with 290
leadership training, scheduling changes, staff support, and care 291
management for chronic health conditions. 292

Sec. 185.09. (A) The patient centered medical home education 293
advisory group shall jointly work with all medical and nursing 294
schools in this state to develop appropriate curricula designed to 295
prepare primary care physicians and advanced practice nurses to 296
practice within the patient centered medical home model of care. 297
In developing the curricula, the advisory group, medical schools, 298
and nursing schools shall include all of the following: 299

(1) Components for use at the medical student, advanced 300
practice nursing student, and primary care resident training 301
levels; 302

(2) Components that reflect, as appropriate, the special 303
needs of patients who are part of a medically underserved 304
population, including medicaid recipients, individuals without 305
health insurance, individuals with disabilities, individuals with 306
chronic health conditions, and individuals within racial or ethnic 307
minority groups; 308

(3) Components that include training in interdisciplinary cooperation between physicians and advanced practice nurses in the patient centered medical home model of care, including curricula ensuring that a common conception of a patient centered medical home model of care is provided to medical students, advanced practice nurses, and primary care residents. 309
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(B) The advisory group shall work in association with the medical and nursing schools to identify funding sources to ensure that the curricula developed under division (A) of this section are accessible to medical students, advanced practice nursing students, and primary care residents. The advisory group shall consider scholarship options or incentives provided to students in addition to those provided under the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code. 315
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Sec. 185.10. The patient centered medical home education advisory group shall seek funding sources for the patient centered medical home education pilot project. In doing so, the advisory group may apply for grants, seek federal funds, seek private donations, or seek any other type of funding that may be available for the pilot project. To ensure that appropriate sources of and opportunities for funding are identified and pursued, the advisory group may ask for assistance from the health care coverage and quality council. 323
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Sec. 185.11. (A) All funds received on behalf of the patient centered medical home education advisory group shall be deposited into an account maintained in a financial institution for the benefit of the patient centered medical home education pilot project. The account shall be in the custody of the treasurer of state, but shall not be part of the state treasury. All disbursements from the account shall be released by the treasurer of state only upon a request bearing the signature of the advisory 332
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group's chairperson, another person designated by the advisory group, or, if an executive director has been appointed, the advisory group's executive director. 340
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(B) The advisory group may use the funds deposited into the account as it considers necessary to fulfill its duties in implementing and administering the pilot project. 343
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Sec. 185.12. (A) The patient centered medical home education advisory group shall prepare reports of its findings and recommendations from the patient centered medical home education pilot project. Each report shall include an evaluation of the learning opportunities generated by the pilot project, the physicians and advanced practice nurses trained in the pilot project, the costs of the pilot project, and the extent to which the pilot project has met the set of expected outcomes developed under division (A) of section 185.03 of the Revised Code. 346
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(B) The reports shall be completed in accordance with the following schedule: 355
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(1) An interim report not later than six months after the date on which the first funding is released pursuant to section 185.11 of the Revised Code; 357
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(2) An update of the interim report not later than one year after the date on which the first funding is released; 360
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(3) A final report not later than two years after the date on which the first funding is released. 362
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(C) The advisory group shall submit each of the reports to the governor and, in accordance with section 101.68 of the Revised Code, to the general assembly. 364
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Sec. 3333.611. (A) All of the following individuals shall jointly develop a proposal for the creation of a primary care 367
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<u>medical student component of the choose Ohio first scholarship</u>	369
<u>program operated under section 3333.61 of the Revised Code under</u>	370
<u>which scholarships are annually made available and awarded to</u>	371
<u>medical students who meet the requirements specified in division</u>	372
<u>(D) of this section:</u>	373
<u>(1) The dean of the Ohio state university school of medicine;</u>	374
<u>(2) The dean of the Case western reserve university school of</u>	375
<u>medicine;</u>	376
<u>(3) The dean of the university of Toledo college of medicine;</u>	377
<u>(4) The president and dean of the northeastern Ohio</u>	378
<u>universities colleges of medicine and pharmacy;</u>	379
<u>(5) The dean of the university of Cincinnati college of</u>	380
<u>medicine;</u>	381
<u>(6) The dean of the Boonshoft school of medicine at Wright</u>	382
<u>state university;</u>	383
<u>(7) The dean of the Ohio university college of osteopathic</u>	384
<u>medicine.</u>	385
<u>(B) The individuals specified in division (A) of this section</u>	386
<u>shall consider including the following provisions in the proposal:</u>	387
<u>(1) Establishing a scholarship of sufficient size to permit</u>	388
<u>annually not more than fifty medical students to receive</u>	389
<u>scholarships;</u>	390
<u>(2) Specifying that a scholarship, once granted, may be</u>	391
<u>provided to a medical student for not more than four years.</u>	392
<u>(C) The individuals specified in division (A) of this section</u>	393
<u>shall submit the proposal for the component to the chancellor of</u>	394
<u>the Ohio board of regents not later than six months after the</u>	395
<u>effective date of this section. The chancellor shall review the</u>	396
<u>proposal and determine whether to implement the component as part</u>	397

of the program. 398

(D) To be eligible for a scholarship made available under the 399
component, a medical student shall meet all of the following 400
requirements: 401

(1) Participate in identified patient centered medical home 402
model training opportunities during medical school; 403

(2) Commit to a post-residency primary care practice in this 404
state for not less than three years; 405

(3) Accept medicaid recipients as patients, without 406
restriction and, as compared to other patients, in a proportion 407
that is specified in the scholarship. 408

Sec. 3333.612. (A) All of the following individuals shall 409
jointly develop a proposal for the creation of a primary care 410
nursing student component of the choose Ohio first scholarship 411
program operated under section 3333.61 of the Revised Code under 412
which scholarships are annually made available and awarded to 413
advanced practice nursing students who meet the requirements 414
specified in division (D) of this section: 415

(1) The dean of the college of nursing at the university of 416
Toledo; 417

(2) The dean of the Wright state university college of 418
nursing and health; 419

(3) The dean of the college of nursing at Kent state 420
university; 421

(4) The dean of the university of Akron college of nursing; 422

(5) The director of the school of nursing at Ohio university. 423

(B) The individuals specified in division (A) of this section 424
shall consider including the following provisions in the proposal: 425

(1) Establishing a scholarship of sufficient size to permit 426

annually not more than thirty advanced practice nursing students 427
to receive scholarships; 428

(2) Specifying that a scholarship, once granted, may be 429
provided to an advanced practice nursing student for not more than 430
three years. 431

(C) The individuals specified in division (A) of this section 432
shall submit the proposal for the component to the chancellor of 433
the Ohio board of regents not later than six months after the 434
effective date of this section. The chancellor shall review the 435
proposal and determine whether to implement the component as part 436
of the program. 437

(D) To be eligible for a scholarship made available under the 438
component, an advanced practice nursing student shall meet all of 439
the following requirements: 440

(1) Participate in identified patient centered medical home 441
model training opportunities during nursing school; 442

(2) Commit to an advanced practice nursing primary care 443
practice in this state after completing nursing school for not 444
less than three years; 445

(3) Accept medicaid recipients as patients, without 446
restriction and, as compared to other patients, in a proportion 447
that is specified in the scholarship. 448

Sec. 3923.91. (A) The health care coverage and quality 449
council shall do all of the following: 450

(1) Advise the governor and general assembly on strategies to 451
improve health care programs and health insurance policies and 452
benefit plans; 453

(2) Monitor and evaluate implementation of strategies for 454
improving access to health insurance coverage and improving the 455
quality of the state's health care system, identify barriers to 456

implementing those strategies, and identify methods for overcoming 457
the barriers; 458

(3) Catalog existing health care data reporting efforts and 459
make recommendations to improve data reporting in a manner that 460
increases transparency and consistency in the health care and 461
insurance coverage systems; 462

(4) Study health care financing alternatives that will 463
increase access to health insurance coverage, promote disease 464
prevention and injury prevention, contain costs, and improve 465
quality; 466

(5) Evaluate the systems that individuals use to obtain or 467
otherwise become connected with health insurance and recommend 468
improvements to those systems or the use of alternative systems; 469

(6) Recommend minimum coverage standards for basic and 470
standard health insurance plans offered by insurance carriers; 471

(7) Recommend strategies, such as subsidies, to assist 472
individuals in being able to afford health insurance coverage; 473

(8) Recommend strategies to implement health information 474
technology to support improved access and quality and reduced 475
costs in the state's health care system; 476

(9) Study alternative care management options for medicaid 477
recipients who are not required to participate in the care 478
management system established under section 5111.16 of the Revised 479
Code; 480

(10) Review the medical home model of care concept, propose 481
the characteristics of a patient centered medical home model of 482
care, pursue appropriate funding opportunities for the development 483
of a patient centered medical home model of care, and propose 484
payment reforms that encourage implementation of a patient 485
centered medical home model of care; 486

(11) Collaborate with the chancellor of the Ohio board of regents or any other entity the council considers appropriate to review issues that may cause limitations on the use of a patient centered medical home model of care; 487
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(12) Recommend reporting requirements for any physician practice or advanced practice nurse primary care practice using a patient centered medical home model of care; 491
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(13) Perform any other duties specified in rules adopted by the superintendent of insurance. 494
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(B) The council shall prepare and issue an annual report, 496
which may include recommendations, on or before the thirty-first 497
day of December of each year. The council may prepare and issue 498
other reports and recommendations at other times that the council 499
finds appropriate. 500

(C) The superintendent may adopt rules as necessary for the 501
council to carry out its duties. The rules shall be adopted under 502
Chapter 119. of the Revised Code. In adopting the rules, the 503
superintendent may consider any recommendations made by the 504
council. 505

Sec. 5111.242. (A) As used in this section: 506

(1) "Applicable calendar year" means the following: 507

(a) For the purpose of the department of job and family 508
services' initial determination under this section of nursing 509
facilities' rate for tax costs, calendar year 2003; 510

(b) For the purpose of the department's subsequent 511
determinations under division ~~(D)~~(C) of this section of nursing 512
facilities' rate for tax costs, the calendar year the department 513
selects. 514

(2) "Tax costs" means the costs of taxes imposed under 515
Chapter 5751. of the Revised Code, real estate taxes, personal 516

property taxes, and corporate franchise taxes. 517

(B) The department of job and family services shall pay a 518
provider for each of the provider's eligible nursing facilities a 519
per resident per day rate for tax costs determined under division 520
(C) of this section. 521

(C) At least once every ten years, the department shall 522
determine the rate for tax costs for each nursing facility. The 523
rate for tax costs determined under this division for a nursing 524
facility shall be used for subsequent years until the department 525
redetermines it. To determine a nursing facility's rate for tax 526
costs and except as provided in division (D) of this section, the 527
department shall divide the nursing facility's desk-reviewed, 528
actual, allowable tax costs paid for the applicable calendar year 529
by the number of inpatient days the nursing facility would have 530
had if its occupancy rate had been one hundred per cent during the 531
applicable calendar year. 532

(D) If a nursing facility had a credit regarding its real 533
estate taxes reflected on its cost report for calendar year 2003, 534
the department shall determine its rate for tax costs for the 535
period beginning on July 1, 2010, and ending on the first day of 536
the fiscal year for which the department first redetermines all 537
nursing facilities' rate for tax costs under division (C) of this 538
section by dividing the nursing facility's desk-reviewed, actual, 539
allowable tax costs paid for calendar year 2004 by the number of 540
inpatient days the nursing facility would have had if its 541
occupancy rate had been one hundred per cent during calendar year 542
2004. 543

Section 2. That existing sections 3923.91 and 5111.242 of the 544
Revised Code are hereby repealed. 545

Section 3. That Section 309.30.25 of Am. Sub. H.B. 1 of the 546

128th General Assembly be amended to read as follows: 547

Sec. 309.30.25. FISCAL YEAR 2011 MEDICAID REIMBURSEMENT 548
SYSTEM FOR NURSING FACILITIES 549

(A) As used in this section: 550

"Fiscal year 2010 partial rate" means the total rate a 551
provider of a nursing facility is paid for nursing facility 552
services the nursing facility provides on June 30, 2010, less the 553
portion of that total rate that equals the sum of the workforce 554
development incentive payment and consolidated services rate 555
included in the total rate pursuant to divisions (D) and (E) of 556
Section 309.30.20 of ~~this act~~ Am. Sub. H.B. 1 of the 128th General 557
Assembly. 558

"Franchise permit fee," "inpatient days," "Medicaid days," 559
"nursing facility," and "provider" have the same meanings as in 560
section 5111.20 of the Revised Code. 561

"Nursing facility services" means nursing facility services 562
covered by the Medicaid program that a nursing facility provides 563
to a resident of the nursing facility who is a Medicaid recipient 564
eligible for Medicaid-covered nursing facility services. 565

(B) Except as otherwise provided by this section, the 566
provider of a nursing facility that has a valid Medicaid provider 567
agreement on June 30, 2010, and a valid Medicaid provider 568
agreement during fiscal year 2011 shall be paid, for nursing 569
facility services the nursing facility provides during fiscal year 570
2011, the rate calculated for the nursing facility under sections 571
5111.20 to 5111.33 of the Revised Code with the following 572
adjustments: 573

(1) The cost per case mix-unit calculated under section 574
5111.231 of the Revised Code, the rate for ancillary and support 575
costs calculated under section 5111.24 of the Revised Code, the 576

rate for tax costs calculated under section 5111.242 of the Revised Code, and the rate for capital costs calculated under section 5111.25 of the Revised Code shall each be adjusted as follows:

(a) Increase the cost and rates so calculated by two per cent;

(b) Increase the cost and rates determined under division (B)(1)(a) of this section by two per cent;

(c) Increase the cost and rates determined under division (B)(1)(b) of this section by one per cent.

(2) The mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, three dollars and three cents per Medicaid day.

(3) The rate, after the adjustments under divisions (B)(1) and (2) of this section are made, shall be further adjusted by a percentage that the Department of Job and Family Services shall determine in consultation with the Ohio Health Care Association; Ohio Academy of Nursing Homes; and the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging. The percentage shall be based on expending an amount equal to the amount determined as follows:

(a) Determine how much of the revenue to be generated under section 3721.51 of the Revised Code for fiscal year 2011 reflects the calculations made under divisions (A)(1) to (4) of section 3721.50 of the Revised Code;

(b) From the amount determined under division (B)(3)(a) of this section, subtract the portion of the amount to be expended under division ~~(E)~~(F) of this section that reflects the part of the calculation made under division ~~(E)~~(F)(2) of this section.

(C) Except as provided in division ~~(F)~~(G) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2011 is more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate, the Department of Job and Family Services shall reduce the nursing facility's rate determined under division (B) of this section for fiscal year 2011 so that the rate is not more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate. Except as provided in division ~~(F)~~(G) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2011 is less than ninety-nine per cent of the nursing facility's fiscal year 2010 partial rate, the Department shall increase the nursing facility's rate determined under division (B) of this section for fiscal year 2011 so that the rate is not less than ninety-nine per cent of the nursing facility's fiscal year 2010 partial rate.

(D) After the adjustments under divisions (B) and (C) of this section are made to a nursing facility's fiscal year 2011 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2011 rate by the amount of real estate taxes reported on the nursing facility's cost report for calendar year 2004 divided by the number of inpatient days reported on that cost report if the nursing facility had a credit regarding its real estate taxes reflected on its cost report for calendar year 2003.

(E) After the adjustments under divisions (B) ~~and~~, (C), and (D) of this section are made to a nursing facility's fiscal year 2011 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2011 rate by five dollars and seventy cents per Medicaid day. This increase shall be

known as the workforce development incentive payment. The total 639
amount of workforce development incentive payments paid to 640
providers of nursing facilities shall be used to improve nursing 641
facilities' employee retention and direct care staffing levels, 642
including by increasing wages paid to nursing facilities' direct 643
care staff. Not later than September 30, 2012, the Department 644
shall submit a report to the Governor and, in accordance with 645
section 101.68 of the Revised Code, the General Assembly detailing 646
the impact that the workforce development incentive payments have 647
on nursing facilities' employee retention, direct care staffing 648
levels, and direct care staff wages. 649

~~(E)~~(F) After the adjustment under division ~~(D)~~(E) of this 650
section is made to a nursing facility's fiscal year 2011 rate, the 651
Department of Job and Family Services shall increase the nursing 652
facility's fiscal year 2011 rate by the consolidated services rate 653
per Medicaid day. The consolidated services rate shall equal the 654
sum of the following: 655

(1) Three dollars and ninety-one cents; 656

(2) The amount calculated under divisions (A)(1) to (4) of 657
section 3721.50 of the Revised Code for fiscal year 2011. 658

~~(F)~~(G) If the fiscal year 2010 rate for a nursing facility as 659
initially determined under division (B) of ~~section~~ Section 660
309.30.20 of ~~this act~~ Am. Sub. H.B. 1 of the 128th General 661
Assembly is not subject to an adjustment under division (C) of 662
that section, the nursing facility's fiscal year 2011 rate as 663
initially determined under division (B) of this section shall not 664
be subject to an adjustment under division (C) of this section 665
regardless of whether the nursing facility's fiscal year 2011 rate 666
as initially determined under division (B) of this section would, 667
if not for this division, be subject to the adjustment. 668

If the fiscal year 2011 rate for a nursing facility as 669

initially determined under division (B) of this section is not 670
subject to an adjustment under division (C) of this section, the 671
nursing facility's rate shall not be subject to an adjustment 672
under that division for the remainder of fiscal year 2011 673
regardless of any other adjustment made to the nursing facility's 674
fiscal year 2011 rate under sections 5111.20 to 5111.33 of the 675
Revised Code. 676

~~(G)~~(H) Not later than October 1, 2010, the Department of Job 677
and Family Services shall determine the rates to be paid providers 678
of nursing facilities under this section. Until the rates are 679
determined, the Department shall continue to pay a provider the 680
rate the provider is paid for nursing facility services the 681
provider's nursing facility provides on June 30, 2010. When the 682
Department determines the rates to be paid under this section, the 683
Department shall pay the rates retroactive to July 1, 2010. 684

~~(H)~~(I) If the United States Centers for Medicare and Medicaid 685
Services requires that the franchise permit fee be reduced or 686
eliminated, the Department of Job and Family Services shall reduce 687
the amount it pays providers of nursing facility services under 688
this section as necessary to reflect the loss to the state of the 689
revenue and federal financial participation generated from the 690
franchise permit fee. 691

~~(I)~~(J) The Department of Job and Family Services shall follow 692
this section in determining the rate to be paid to the provider of 693
a nursing facility that has a valid Medicaid provider agreement on 694
June 30, 2010, and a valid Medicaid provider agreement during 695
fiscal year 2011 notwithstanding anything to the contrary in 696
sections 5111.20 to 5111.33 of the Revised Code. 697

Section 4. That existing Section 309.30.25 of Am. Sub. H.B. 1 698
of the 128th General Assembly is hereby repealed. 699

Section 5. That Section 5 of Sub. H.B. 125 of the 127th
General Assembly, as amended by Sub. H.B. 493 of the 127th General
Assembly, be amended to read as follows:

Sec. 5. (A) As used in this section and Section 6 of Sub.
H.B. 125 of the 127th General Assembly:

(1) "Most favored nation clause" means a provision in a
health care contract that does any of the following:

(a) Prohibits, or grants a contracting entity an option to
prohibit, the participating provider from contracting with another
contracting entity to provide health care services at a lower
price than the payment specified in the contract;

(b) Requires, or grants a contracting entity an option to
require, the participating provider to accept a lower payment in
the event the participating provider agrees to provide health care
services to any other contracting entity at a lower price;

(c) Requires, or grants a contracting entity an option to
require, termination or renegotiation of the existing health care
contract in the event the participating provider agrees to provide
health care services to any other contracting entity at a lower
price;

(d) Requires the participating provider to disclose the
participating provider's contractual reimbursement rates with
other contracting entities.

(2) "Contracting entity," "health care contract," "health
care services," "participating provider," and "provider" have the
same meanings as in section 3963.01 of the Revised Code, as
enacted by Sub. H.B. 125 of the 127th General Assembly.

(B) With respect to a contracting entity and a provider other
than a hospital, no health care contract that includes a most

729 favored nation clause shall be entered into, and no health care
730 contract at the instance of a contracting entity shall be amended
731 or renewed to include a most favored nation clause, for a period
732 of three years after the effective date of Sub. H.B. 125 of the
733 127th General Assembly.

734 (C) With respect to a contracting entity and a hospital, no
735 health care contract that includes a most favored nation clause
736 shall be entered into, and no health care contract at the instance
737 of a contracting entity shall be amended or renewed to include a
738 most favored nation clause, for a period of ~~two~~ three years after
739 the effective date of Sub. H.B. 125 of the 127th General Assembly,
740 subject to extension as provided in Section 6 of Sub. H.B. 125 of
741 the 127th General Assembly.

742 (D) This section does not apply to and does not prohibit the
743 continued use of a most favored nation clause in a health care
744 contract that is between a contracting entity and a hospital and
745 that is in existence on the effective date of Sub. H.B. 125 of the
746 127th General Assembly even if the health care contract is
747 materially amended with respect to any provision of the health
748 care contract other than the most favored nation clause during the
749 two-year period specified in this section or during any extended
750 period of time as provided in Section 6 of Sub. H.B. 125 of the
751 127th General Assembly.

752 **Section 6.** That existing Section 5 of Sub. H.B. 125 of the
753 127th General Assembly, as amended by Sub. H.B. 493 of the 127th
754 General Assembly, is hereby repealed.

755 **Section 7.** Sections 1 and 2 of this act, except for the
756 amendments to section 5111.242 of the Revised Code, shall take
757 effect on the ninetieth day after the effective date of this act.

758 **Section 8.** This act is hereby declared to be an emergency

measure necessary for the immediate preservation of the public 759
peace, health, and safety. The reason for such necessity is that 760
it establishes continuity for existing most favored nation clauses 761
in health care contracts and avoids the administrative expense of 762
recalculating a nursing facility's Medicaid reimbursement rate for 763
tax costs after fiscal year 2011 begins. Therefore, this act shall 764
go into immediate effect. 765