

As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 194

Senators Gillmor, Oelslager

Cosponsor: Senator Tavares

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A B I L L

To amend sections 1739.05 and 1751.35 and to enact 1
sections 1751.68, 1751.69, 3923.84, 3923.85, and 2
4729.43 of the Revised Code regarding the delivery 3
of certain non-self-injectable and compounded 4
medications and insurance coverage for orally 5
administered cancer medications. 6

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

Section 1. That sections 1739.05 and 1751.35 be amended and 7
sections 1751.68, 1751.69, 3923.84, 3923.85, and 4729.43 of the 8
Revised Code be enacted to read as follows: 9

Sec. 1739.05. (A) A multiple employer welfare arrangement 10
that is created pursuant to sections 1739.01 to 1739.22 of the 11
Revised Code and that operates a group self-insurance program may 12
be established only if any of the following applies: 13

(1) The arrangement has and maintains a minimum enrollment of 14
three hundred employees of two or more employers. 15

(2) The arrangement has and maintains a minimum enrollment of 16
three hundred self-employed individuals. 17

(3) The arrangement has and maintains a minimum enrollment of 18

three hundred employees or self-employed individuals in any 19
combination of divisions (A)(1) and (2) of this section. 20

(B) A multiple employer welfare arrangement that is created 21
pursuant to sections 1739.01 to 1739.22 of the Revised Code and 22
that operates a group self-insurance program shall comply with all 23
laws applicable to self-funded programs in this state, including 24
sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 25
to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 26
3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.63, 27
3923.80, 3923.84, 3923.85, 3924.031, 3924.032, and 3924.27 of the 28
Revised Code. 29

(C) A multiple employer welfare arrangement created pursuant 30
to sections 1739.01 to 1739.22 of the Revised Code shall solicit 31
enrollments only through agents or solicitors licensed pursuant to 32
Chapter 3905. of the Revised Code to sell or solicit sickness and 33
accident insurance. 34

(D) A multiple employer welfare arrangement created pursuant 35
to sections 1739.01 to 1739.22 of the Revised Code shall provide 36
benefits only to individuals who are members, employees of 37
members, or the dependents of members or employees, or are 38
eligible for continuation of coverage under section 1751.53 or 39
3923.38 of the Revised Code or under Title X of the "Consolidated 40
Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 41
U.S.C.A. 1161, as amended. 42

Sec. 1751.35. (A) The superintendent of insurance may suspend 43
or revoke any certificate of authority issued to a health insuring 44
corporation under this chapter if the superintendent finds that: 45
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(1) The health insuring corporation is operating in 47
contravention of its articles of incorporation, its health care 48
plan or plans, or in a manner contrary to that described in and 49

reasonably inferred from any other information submitted under 50
section 1751.03 of the Revised Code, unless amendments to such 51
submissions have been filed and have taken effect in compliance 52
with this chapter. 53

(2) The health insuring corporation fails to issue evidences 54
of coverage in compliance with the requirements of section 1751.11 55
of the Revised Code. 56

(3) The contractual periodic prepayments or premium rates 57
used do not comply with the requirements of section 1751.12 of the 58
Revised Code. 59

(4) The health insuring corporation enters into a contract, 60
agreement, or other arrangement with any health care facility or 61
provider, that does not comply with the requirements of section 62
1751.13 of the Revised Code, or the corporation fails to provide 63
an annual certificate as required by section 1751.13 of the 64
Revised Code. 65

(5) The superintendent determines, after a hearing conducted 66
in accordance with Chapter 119. of the Revised Code, that the 67
health insuring corporation no longer meets the requirements of 68
section 1751.04 of the Revised Code. 69

(6) The health insuring corporation is no longer financially 70
responsible and may reasonably be expected to be unable to meet 71
its obligations to enrollees or prospective enrollees. 72

(7) The health insuring corporation has failed to implement 73
the complaint system that complies with the requirements of 74
section 1751.19 of the Revised Code. 75

(8) The health insuring corporation, or any agent or 76
representative of the corporation, has advertised, merchandised, 77
or solicited on its behalf in contravention of the requirements of 78
section 1751.31 of the Revised Code. 79

(9) The health insuring corporation has unlawfully discriminated against any enrollee or prospective enrollee with respect to enrollment, disenrollment, or price or quality of health care services.

(10) The continued operation of the health insuring corporation would be hazardous or otherwise detrimental to its enrollees.

(11) The health insuring corporation has submitted false information in any filing or submission required under this chapter or any rule adopted under this chapter.

(12) The health insuring corporation has otherwise failed to substantially comply with this chapter or any rule adopted under this chapter.

(13) The health insuring corporation is not operating a health care plan.

(14) The health insuring corporation has failed to comply with any of the requirements of sections 1751.77 to 1751.88 of the Revised Code.

(15) The health insuring corporation has failed to comply with section 1751.68 or 1751.69 of the Revised Code.

(B) A certificate of authority shall be suspended or revoked only after compliance with the requirements of Chapter 119. of the Revised Code.

(C) When the certificate of authority of a health insuring corporation is suspended, the health insuring corporation, during the period of suspension, shall not enroll any additional subscribers or enrollees except newborn children or other newly acquired dependents of existing subscribers or enrollees, and shall not engage in any advertising or solicitation whatsoever.

(D) When the certificate of authority of a health insuring

corporation is revoked, the health insuring corporation, following 110
the effective date of the order of revocation, shall conduct no 111
further business except as may be essential to the orderly 112
conclusion of the affairs of the health insuring corporation. The 113
health insuring corporation shall engage in no further advertising 114
or solicitation whatsoever. The superintendent, by written order, 115
may permit such further operation of the health insuring 116
corporation as the superintendent may find to be in the best 117
interest of enrollees, to the end that enrollees will be afforded 118
the greatest practical opportunity to obtain continuing health 119
care coverage. 120

Sec. 1751.68. (A) As used in this section: 121

(1) "Dangerous drug" has the same meaning as in section 122
4729.01 of the Revised Code. 123

(2) "Non-self-injectable medication" means a dangerous drug 124
intended for administration by injection that an individual cannot 125
reasonably self-administer. 126

(B) No individual or group health insuring corporation 127
policy, contract, or agreement providing basic health care 128
services or prescription drug services that is delivered, issued 129
for delivery, or renewed in this state, if the policy, contract, 130
or agreement provides coverage for non-self-injectable 131
medications, medications that must be compounded immediately prior 132
to administration, or both, shall require an enrollee to have such 133
a medication delivered directly to the enrollee by mail or any 134
means of commercial shipment. 135

(C) The superintendent of insurance may conduct hearings to 136
determine whether violations of this section have occurred. The 137
hearings shall be conducted in accordance with Chapter 119. of the 138
Revised Code. 139

(D) If the superintendent, by written order, finds that a health insuring corporation has violated this section, the superintendent may do one or more of the following: 140
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(1) Issue an order requiring the health insuring corporation to cease and desist from engaging in the violation; 143
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(2) Pursuant to division (A)(15) of section 1751.35 of the Revised Code, suspend or revoke the health insuring corporation's certificate of authority issued under this chapter; 145
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(3) Order the health insuring corporation neither to employ any individual who is associated with the violation nor permit such an individual to serve as a director, consultant, or in any other capacity for a duration of time the superintendent determines would best serve the public interest. 148
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(E) In addition to the sanctions the superintendent may impose under division (D) of this section, a court may do either or both of the following: 153
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(1) Impose a civil penalty on the health insuring corporation, not to exceed an aggregate amount of thirty-five thousand dollars, for one or more violations of this section that occur in any six-month period; 156
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(2) Impose a civil penalty on the health insuring corporation not to exceed ten thousand dollars for each violation of a cease and desist order described in division (D)(1) of this section. 160
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(F) All money collected under this section shall be deposited in the state treasury to the credit of the department of insurance's operating fund and shall be used only for the purpose of enforcing this section and sections 1751.69, 3923.84, and 3923.85 of the Revised Code. 163
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Sec. 1751.69. (A) Notwithstanding section 3901.71 of the Revised Code and subject to division (B) of this section, no 168
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individual or group health insuring corporation policy, contract, 170
or agreement providing basic health care services or prescription 171
drug services that is delivered, issued for delivery, or renewed 172
in this state, if the policy, contract, or agreement provides 173
coverage for cancer chemotherapy treatment, shall fail to comply 174
with any of the following: 175

(1) The policy, contract, or agreement shall not provide 176
coverage for a prescribed, orally administered cancer medication 177
on a less favorable basis than the coverage it provides for 178
intravenously administered or injected cancer medications. This 179
includes a prohibition on imposing a coverage limit, copayment, 180
coinsurance, deductible, or other out-of-pocket expense that is 181
greater than any coverage limit, copayment, coinsurance, 182
deductible, or other out-of-pocket expense in the policy, 183
contract, or agreement that applies to coverage for intravenously 184
administered or injected cancer medications. 185

(2) The policy, contract, or agreement shall not impose a 186
coverage limit, copayment, coinsurance, deductible, or other 187
out-of-pocket expense on a prescribed, orally administered cancer 188
medication or intravenously administered or injected cancer 189
medication that is greater than the coverage limit, copayment, 190
coinsurance, deductible, or other out-of-pocket expense that 191
applies to the medication on the effective date of this section. 192

(3) The policy, contract, or agreement shall not place a 193
prescribed, orally administered cancer medication or 194
intravenously administered or injected cancer medication in a 195
more expensive price tier than the price tier the medication is in 196
on the effective date of this section. 197

(4) The policy, contract, or agreement shall not impose 198
conditions on an enrollee's treatment with prescribed, orally 199
administered cancer medication or intravenously administered or 200

injected cancer medication that are more restrictive than the 201
conditions that apply to an enrollee's treatment with the 202
medication on the effective date of this section. 203

(B) The prohibitions in division (A) of this section do not 204
preclude an individual or group health insuring corporation 205
policy, contract, or agreement from requiring an enrollee to 206
obtain prior authorization before orally administered cancer 207
medication is dispensed to the enrollee. 208

(C) The superintendent of insurance may conduct hearings to 209
determine whether violations of this section have occurred. The 210
hearings shall be conducted in accordance with Chapter 119. of the 211
Revised Code. 212

(D) If the superintendent, by written order, finds that a 213
health insuring corporation has violated this section, the 214
superintendent may do one or more of the following: 215

(1) Issue an order requiring the health insuring corporation 216
to cease and desist from engaging in the violation; 217

(2) Pursuant to division (A)(15) of section 1751.35 of the 218
Revised Code, suspend or revoke the health insuring corporation's 219
certificate of authority issued under this chapter; 220

(3) Order the health insuring corporation neither to employ 221
any individual who is associated with the violation nor permit 222
such an individual to serve as a director, consultant, or in any 223
other capacity for a duration of time the superintendent 224
determines would best serve the public interest. 225

(E) In addition to the sanctions the superintendent may 226
impose under division (D) of this section, a court may do either 227
or both of the following: 228

(1) Impose a civil penalty on the health insuring 229
corporation, not to exceed an aggregate amount of thirty-five 230

thousand dollars, for one or more violations of this section that 231
occur in any six-month period; 232

(2) Impose a civil penalty on the health insuring corporation 233
not to exceed ten thousand dollars for each violation of a cease 234
and desist order described in division (D)(1) of this section. 235

(F) All money collected under this section shall be deposited 236
in the state treasury to the credit of the department of 237
insurance's operating fund and shall be used only for the purpose 238
of enforcing this section and sections 1751.69, 3923.84, and 239
3923.85 of the Revised Code. 240

Sec. 3923.84. (A) As used in this section: 241

(1) "Dangerous drug" has the same meaning as in section 242
4729.01 of the Revised Code. 243

(2) "Non-self-injectable medication" means a dangerous drug 244
intended for administration by injection that an individual cannot 245
reasonably self-administer. 246

(B) No individual or group policy of sickness and accident 247
insurance that is delivered, issued for delivery, or renewed in 248
this state, and no public employee benefit plan that is 249
established or modified in this state, if the policy or plan 250
provides coverage for non-self-injectable medications, medications 251
that must be compounded immediately prior to administration, or 252
both, shall require an insured or plan member to have such a 253
medication delivered directly to the insured or plan member by 254
mail or any means of commercial shipment. 255

(C) The superintendent of insurance may conduct hearings to 256
determine whether violations of this section have occurred. The 257
hearings shall be conducted in accordance with Chapter 119. of the 258
Revised Code. 259

(D) If the superintendent, by written order, finds that a 260

person has violated this section, the superintendent may do one or 261
more of the following: 262

(1) Issue an order requiring the person to cease and desist 263
from engaging in the violation; 264

(2) Suspend or revoke the person's license to engage in the 265
business of insurance under this chapter; 266

(3) Order the person neither to employ any individual who is 267
associated with the violation nor permit such an individual to 268
serve as a director, consultant, or in any other capacity for a 269
duration of time the superintendent determines would best serve 270
the public interest. 271

(E) In addition to the sanctions the superintendent may 272
impose under division (D) of this section, a court may do either 273
or both of the following: 274

(1) Impose a civil penalty on the person, not to exceed an 275
aggregate amount of thirty-five thousand dollars, for one or more 276
violations of this section that occur in any six-month period; 277

(2) Impose a civil penalty on the person not to exceed ten 278
thousand dollars for each violation of a cease and desist order 279
described in division (D)(1) of this section. 280

(F) All money collected under this section shall be deposited 281
in the state treasury to the credit of the department of 282
insurance's operating fund and shall be used only for the purpose 283
of enforcing this section and sections 1751.68, 1751.69, and 284
3923.85 of the Revised Code. 285

Sec. 3923.85. (A) Notwithstanding section 3901.71 of the 286
Revised Code and subject to division (B) of this section, no 287
individual or group policy of sickness and accident insurance that 288
is delivered, issued for delivery, or renewed in this state and no 289
public employee benefit plan that is established or modified in 290

this state shall fail to comply with any of the following: 291

(1) The policy or plan shall not provide coverage for a 292
prescribed, orally administered cancer medication on a less 293
favorable basis than the coverage it provides for intravenously 294
administered or injected cancer medications. This includes a 295
prohibition on imposing a coverage limit, copayment, coinsurance, 296
deductible, or other out-of-pocket expense that is greater than 297
any coverage limit, copayment, coinsurance, deductible, or other 298
out-of-pocket expense in the policy or plan that applies to 299
coverage for intravenously administered or injected cancer 300
medications. 301

(2) The policy or plan shall not impose a coverage limit, 302
copayment, coinsurance, deductible, or other out-of-pocket expense 303
on a prescribed, orally administered cancer medication or 304
intravenously administered or injected cancer medication that is 305
greater than the coverage limit, copayment, coinsurance, 306
deductible, or other out-of-pocket expense that applies to the 307
medication on the effective date of this section. 308

(3) The policy or plan shall not place a prescribed, orally 309
administered cancer medication or intravenously administered or 310
injected cancer medication in a more expensive price tier than the 311
price tier the medication is in on the effective date of this 312
section. 313

(4) The policy or plan shall not impose conditions on an 314
insured's or plan member's treatment with prescribed, orally 315
administered cancer medication or intravenously administered or 316
injected cancer medication that are more restrictive than the 317
conditions that apply to an insured's or plan member's treatment 318
with the medication on the effective date of this section. 319

(B) The prohibitions in division (A) of this section do not 320
preclude an individual or group policy of sickness and accident 321

insurance or public employee benefit plan from requiring an 322
insured or plan member to obtain prior authorization before orally 323
administered cancer medication is dispensed to the insured or plan 324
member. 325

(C) The superintendent of insurance may conduct hearings to 326
determine whether violations of this section have occurred. The 327
hearings shall be conducted in accordance with Chapter 119. of the 328
Revised Code. 329

(D) If the superintendent, by written order, finds that a 330
person has violated this section, the superintendent may do one or 331
more of the following: 332

(1) Issue an order requiring the person to cease and desist 333
from engaging in the violation; 334

(2) Suspend or revoke the person's license to engage in the 335
business of insurance under this chapter; 336

(3) Order the person neither to employ any individual who is 337
associated with the violation nor permit such an individual to 338
serve as a director, consultant, or in any other capacity for a 339
duration of time the superintendent determines would best serve 340
the public interest. 341

(E) In addition to the sanctions the superintendent may 342
impose under division (D) of this section, a court may do either 343
or both of the following: 344

(1) Impose a civil penalty on the person, not to exceed an 345
aggregate amount of thirty-five thousand dollars, for one or more 346
violations of this section that occur in any six-month period; 347

(2) Impose a civil penalty on the person not to exceed ten 348
thousand dollars for each violation of a cease and desist order 349
described in division (D)(1) of this section. 350

(F) All money collected under this section shall be deposited 351

in the state treasury to the credit of the department of 352
insurance's operating fund and shall be used only for the purpose 353
of enforcing this section and sections 1751.68, 1751.69, and 354
3923.84 of the Revised Code. 355

Sec. 4729.43. (A) As used in this section, 356
"non-self-injectable medication" means a dangerous drug intended 357
for administration by injection that an individual cannot 358
reasonably self-administer. 359

(B) A pharmacist or pharmacy intern who is presented with a 360
prescription for a non-self-injectable medication or a medication 361
that must be compounded immediately prior to administration to the 362
patient shall not, under any circumstances, deliver the medication 363
to the patient's private residence unless the patient's private 364
residence is a nursing home, residential care facility, 365
rehabilitation facility, or similar institutional facility or 366
health care facility; the nursing home or facility consented to 367
the delivery; and the delivery does not violate the nursing home's 368
or facility's policies. 369

Section 2. That existing sections 1739.05 and 1751.35 of the 370
Revised Code are hereby repealed. 371

Section 3. This act shall be known as the "Robert L. Schuler 372
Act" in honor of the late Robert L. Schuler who served in both the 373
Ohio House of Representatives and the Ohio Senate. 374

Section 4. Sections 1739.05, 1751.68, and 1751.69 of the 375
Revised Code, as amended or enacted by this act, shall apply only 376
to policies, contracts, and agreements that are delivered, issued 377
for delivery, or renewed in this state on or after the effective 378
date of this act, and sections 3923.84 and 3923.85 of the Revised 379
Code, as enacted by this act, shall apply to policies of sickness 380
and accident insurance delivered, issued for delivery, or renewed 381

in this state and public employee benefit plans that are	382
established or modified in this state on or after the effective	383
date of this act.	384