

**As Reported by the Senate Insurance and Financial Institutions
Committee**

**130th General Assembly
Regular Session
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Am. S. B. No. 99

Senators Oelslager, Tavares

**Cosponsors: Senators Brown, Cafaro, Gardner, Hite, Kearney, Lehner,
Schiavoni, Smith, Turner, LaRose, Manning, Skindell, Gentile**

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A B I L L

To amend sections 1739.05 and 1751.35 and to enact 1
sections 1751.69 and 3923.85 of the Revised Code 2
regarding insurance coverage for orally 3
administered cancer medications. 4

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

Section 1. That sections 1739.05 and 1751.35 be amended and 5
sections 1751.69 and 3923.85 of the Revised Code be enacted to 6
read as follows: 7

Sec. 1739.05. (A) A multiple employer welfare arrangement 8
that is created pursuant to sections 1739.01 to 1739.22 of the 9
Revised Code and that operates a group self-insurance program may 10
be established only if any of the following applies: 11

(1) The arrangement has and maintains a minimum enrollment of 12
three hundred employees of two or more employers. 13

(2) The arrangement has and maintains a minimum enrollment of 14
three hundred self-employed individuals. 15

(3) The arrangement has and maintains a minimum enrollment of 16

three hundred employees or self-employed individuals in any 17
combination of divisions (A)(1) and (2) of this section. 18

(B) A multiple employer welfare arrangement that is created 19
pursuant to sections 1739.01 to 1739.22 of the Revised Code and 20
that operates a group self-insurance program shall comply with all 21
laws applicable to self-funded programs in this state, including 22
sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 23
to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 24
3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.63, 25
3923.80, 3923.85, 3924.031, 3924.032, and 3924.27 of the Revised 26
Code. 27

(C) A multiple employer welfare arrangement created pursuant 28
to sections 1739.01 to 1739.22 of the Revised Code shall solicit 29
enrollments only through agents or solicitors licensed pursuant to 30
Chapter 3905. of the Revised Code to sell or solicit sickness and 31
accident insurance. 32

(D) A multiple employer welfare arrangement created pursuant 33
to sections 1739.01 to 1739.22 of the Revised Code shall provide 34
benefits only to individuals who are members, employees of 35
members, or the dependents of members or employees, or are 36
eligible for continuation of coverage under section 1751.53 or 37
3923.38 of the Revised Code or under Title X of the "Consolidated 38
Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 39
U.S.C.A. 1161, as amended. 40

Sec. 1751.35. (A) The superintendent of insurance may suspend 41
or revoke any certificate of authority issued to a health insuring 42
corporation under this chapter if the superintendent finds that: 43
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(1) The health insuring corporation is operating in 45
contravention of its articles of incorporation, its health care 46
plan or plans, or in a manner contrary to that described in and 47

reasonably inferred from any other information submitted under 48
section 1751.03 of the Revised Code, unless amendments to such 49
submissions have been filed and have taken effect in compliance 50
with this chapter. 51

(2) The health insuring corporation fails to issue evidences 52
of coverage in compliance with the requirements of section 1751.11 53
of the Revised Code. 54

(3) The contractual periodic prepayments or premium rates 55
used do not comply with the requirements of section 1751.12 of the 56
Revised Code. 57

(4) The health insuring corporation enters into a contract, 58
agreement, or other arrangement with any health care facility or 59
provider, that does not comply with the requirements of section 60
1751.13 of the Revised Code, or the corporation fails to provide 61
an annual certificate as required by section 1751.13 of the 62
Revised Code. 63

(5) The superintendent determines, after a hearing conducted 64
in accordance with Chapter 119. of the Revised Code, that the 65
health insuring corporation no longer meets the requirements of 66
section 1751.04 of the Revised Code. 67

(6) The health insuring corporation is no longer financially 68
responsible and may reasonably be expected to be unable to meet 69
its obligations to enrollees or prospective enrollees. 70

(7) The health insuring corporation has failed to implement 71
the complaint system that complies with the requirements of 72
section 1751.19 of the Revised Code. 73

(8) The health insuring corporation, or any agent or 74
representative of the corporation, has advertised, merchandised, 75
or solicited on its behalf in contravention of the requirements of 76
section 1751.31 of the Revised Code. 77

(9) The health insuring corporation has unlawfully 78
discriminated against any enrollee or prospective enrollee with 79
respect to enrollment, disenrollment, or price or quality of 80
health care services. 81

(10) The continued operation of the health insuring 82
corporation would be hazardous or otherwise detrimental to its 83
enrollees. 84

(11) The health insuring corporation has submitted false 85
information in any filing or submission required under this 86
chapter or any rule adopted under this chapter. 87

(12) The health insuring corporation has otherwise failed to 88
substantially comply with this chapter or any rule adopted under 89
this chapter. 90

(13) The health insuring corporation is not operating a 91
health care plan. 92

(14) The health insuring corporation has failed to comply 93
with any of the requirements of sections 1751.77 to 1751.87 or 94
Chapter 3922. of the Revised Code. 95

(15) The health insuring corporation has failed to comply 96
with section 1751.69 of the Revised Code. 97

(B) A certificate of authority shall be suspended or revoked 98
only after compliance with the requirements of Chapter 119. of the 99
Revised Code. 100

(C) When the certificate of authority of a health insuring 101
corporation is suspended, the health insuring corporation, during 102
the period of suspension, shall not enroll any additional 103
subscribers or enrollees except newborn children or other newly 104
acquired dependents of existing subscribers or enrollees, and 105
shall not engage in any advertising or solicitation whatsoever. 106

(D) When the certificate of authority of a health insuring 107

corporation is revoked, the health insuring corporation, following 108
the effective date of the order of revocation, shall conduct no 109
further business except as may be essential to the orderly 110
conclusion of the affairs of the health insuring corporation. The 111
health insuring corporation shall engage in no further advertising 112
or solicitation whatsoever. The superintendent, by written order, 113
may permit such further operation of the health insuring 114
corporation as the superintendent may find to be in the best 115
interest of enrollees, to the end that enrollees will be afforded 116
the greatest practical opportunity to obtain continuing health 117
care coverage. 118

Sec. 1751.69. (A) Notwithstanding section 3901.71 of the 119
Revised Code and subject to division (B) of this section, no 120
individual or group health insuring corporation policy, contract, 121
or agreement providing basic health care services or prescription 122
drug services that is delivered, issued for delivery, or renewed 123
in this state, if the policy, contract, or agreement provides 124
coverage for cancer chemotherapy treatment, shall fail to comply 125
with any of the following: 126

(1) The policy, contract, or agreement shall not provide 127
coverage for a prescribed, orally administered cancer medication 128
on a less favorable basis than the coverage it provides for 129
intravenously administered or injected cancer medications. This 130
includes a prohibition on imposing a coverage limit, copayment, 131
coinsurance, deductible, or other out-of-pocket expense that is 132
greater than any coverage limit, copayment, coinsurance, 133
deductible, or other out-of-pocket expense in the policy, 134
contract, or agreement that applies to coverage for intravenously 135
administered or injected cancer medications. 136

(2) The policy, contract, or agreement shall not impose a 137
coverage limit, copayment, coinsurance, deductible, or other 138

out-of-pocket expense on a prescribed, orally administered cancer medication or intravenously administered or injected cancer medication that is greater than the coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense that applies to the medication on the effective date of this section. 139
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(3) The policy, contract, or agreement shall not place a prescribed, orally administered cancer medication or intravenously administered or injected cancer medication in a more expensive price tier than the price tier the medication is in on the effective date of this section. 144
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(4) The policy, contract, or agreement shall not impose conditions on an enrollee's treatment with prescribed, orally administered cancer medication or intravenously administered or injected cancer medication that are more restrictive than the conditions that apply to an enrollee's treatment with the medication on the effective date of this section. 149
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(B) The prohibitions in division (A) of this section do not preclude an individual or group health insuring corporation policy, contract, or agreement from requiring an enrollee to obtain prior authorization before orally administered cancer medication is dispensed to the enrollee. 155
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(C) The superintendent of insurance may conduct hearings to determine whether violations of this section have occurred. The hearings shall be conducted in accordance with Chapter 119. of the Revised Code. 160
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(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: 164
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(1) Issue an order requiring the health insuring corporation to cease and desist from engaging in the violation; 167
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(2) Pursuant to division (A)(15) of section 1751.35 of the 169

Revised Code, suspend or revoke the health insuring corporation's 170
certificate of authority issued under this chapter; 171

(3) Order the health insuring corporation neither to employ 172
any individual who is associated with the violation nor permit 173
such an individual to serve as a director, consultant, or in any 174
other capacity for a duration of time the superintendent 175
determines would best serve the public interest. 176

(E) In addition to the sanctions the superintendent may 177
impose under division (D) of this section, a court may do either 178
or both of the following: 179

(1) Impose a civil penalty on the health insuring 180
corporation, not to exceed an aggregate amount of thirty-five 181
thousand dollars, for one or more violations of this section that 182
occur in any six-month period; 183

(2) Impose a civil penalty on the health insuring corporation 184
not to exceed ten thousand dollars for each violation of a cease 185
and desist order described in division (D)(1) of this section. 186

(F) All money collected under this section shall be deposited 187
in the state treasury to the credit of the department of insurance 188
operating fund and shall be used only for the purpose of enforcing 189
this section and sections 1751.69 and 3923.85 of the Revised Code. 190

Sec. 3923.85. (A) Notwithstanding section 3901.71 of the 191
Revised Code and subject to division (B) of this section, no 192
individual or group policy of sickness and accident insurance that 193
is delivered, issued for delivery, or renewed in this state and no 194
public employee benefit plan that is established or modified in 195
this state shall fail to comply with any of the following: 196

(1) The policy or plan shall not provide coverage for a 197
prescribed, orally administered cancer medication on a less 198
favorable basis than the coverage it provides for intravenously 199

administered or injected cancer medications. This includes a 200
prohibition on imposing a coverage limit, copayment, coinsurance, 201
deductible, or other out-of-pocket expense that is greater than 202
any coverage limit, copayment, coinsurance, deductible, or other 203
out-of-pocket expense in the policy or plan that applies to 204
coverage for intravenously administered or injected cancer 205
medications. 206

(2) The policy or plan shall not impose a coverage limit, 207
copayment, coinsurance, deductible, or other out-of-pocket expense 208
on a prescribed, orally administered cancer medication or 209
intravenously administered or injected cancer medication that is 210
greater than the coverage limit, copayment, coinsurance, 211
deductible, or other out-of-pocket expense that applies to the 212
medication on the effective date of this section. 213

(3) The policy or plan shall not place a prescribed, orally 214
administered cancer medication or intravenously administered or 215
injected cancer medication in a more expensive price tier than the 216
price tier the medication is in on the effective date of this 217
section. 218

(4) The policy or plan shall not impose conditions on an 219
insured's or plan member's treatment with prescribed, orally 220
administered cancer medication or intravenously administered or 221
injected cancer medication that are more restrictive than the 222
conditions that apply to an insured's or plan member's treatment 223
with the medication on the effective date of this section. 224

(B)(1) The prohibitions in division (A) of this section do 225
not preclude an individual or group policy of sickness and 226
accident insurance or public employee benefit plan from requiring 227
an insured or plan member to obtain prior authorization before 228
orally administered cancer medication is dispensed to the insured 229
or plan member. 230

(2) Division (A) of this section does not apply to the offer 231
or renewal of any individual or group policy of sickness and 232
accident insurance that provides coverage for specific diseases or 233
accidents only, or to any hospital indemnity, medicare supplement, 234
disability income, or other policy that offers only supplemental 235
benefits. 236

(C) The superintendent of insurance may conduct hearings to 237
determine whether violations of this section have occurred. The 238
hearings shall be conducted in accordance with Chapter 119. of the 239
Revised Code. 240

(D) If the superintendent, by written order, finds that a 241
person has violated this section, the superintendent may do one or 242
more of the following: 243

(1) Issue an order requiring the person to cease and desist 244
from engaging in the violation; 245

(2) Suspend or revoke the person's license to engage in the 246
business of insurance under this chapter; 247

(3) Order the person neither to employ any individual who is 248
associated with the violation nor permit such an individual to 249
serve as a director, consultant, or in any other capacity for a 250
duration of time the superintendent determines would best serve 251
the public interest. 252

(E) In addition to the sanctions the superintendent may 253
impose under division (D) of this section, a court may do either 254
or both of the following: 255

(1) Impose a civil penalty on the person, not to exceed an 256
aggregate amount of thirty-five thousand dollars, for one or more 257
violations of this section that occur in any six-month period; 258

(2) Impose a civil penalty on the person not to exceed ten 259
thousand dollars for each violation of a cease and desist order 260

<u>described in division (D)(1) of this section.</u>	261
<u>(F) All money collected under this section shall be deposited</u>	262
<u>in the state treasury to the credit of the department of insurance</u>	263
<u>operating fund and shall be used only for the purpose of enforcing</u>	264
<u>this section and section 1751.69 of the Revised Code.</u>	265
Section 2. That existing sections 1739.05 and 1751.35 of the	266
Revised Code are hereby repealed.	267
Section 3. This act shall be known as the "Robert L. Schuler	268
Act" in honor of the late Robert L. Schuler who served in both the	269
Ohio House of Representatives and the Ohio Senate.	270
Section 4. Sections 1739.05 and 1751.69 of the Revised Code,	271
as amended or enacted by this act, apply only to policies,	272
contracts, and agreements that are delivered, issued for delivery,	273
or renewed in this state on or after the effective date of this	274
act. Section 3923.85 of the Revised Code, as enacted by this act,	275
applies only to policies of sickness and accident insurance	276
delivered, issued for delivery, or renewed in this state and	277
public employee benefit plans that are established or modified in	278
this state on or after the effective date of this act.	279