

**OHIO**

**House**

**of**

**Representatives**

**JOURNAL**

**WEDNESDAY, DECEMBER 8, 2004**

TWO HUNDRED FORTY-SECOND DAY  
Hall of the House of Representatives, Columbus, Ohio  
**Wednesday, December 8, 2004 at 1:30 o'clock p.m.**

The House met pursuant to adjournment.

Prayer was offered by Pastor Doug DeWitt of the Immanuel Lutheran Church in Hamler, Ohio, followed by the Pledge of Allegiance to the Flag, led by the Ottoville, Ohio Boy Scout Troop #266.

The journal of yesterday was read and approved.

The following guest of the House of Representatives was recognized by Speaker Householder prior to the commencement of business:

Russ Rife, a guest of Representative Wagner-81st district.

### INTRODUCTION OF BILLS

The following bills were introduced:

**H. B. No. 587**-Representative Calvert. To direct the General Assembly in its deliberations regarding the enactment of a capital appropriations bill.

**H. B. No. 588**-Representatives Gibbs, Aslanides, Blasdel, Brinkman, Buehrer, Calvert, Carmichael, Cates, Clancy, Collier, Daniels, DeWine, Distel, Domenick, C. Evans, D. Evans, Faber, Fessler, Flowers, Gilb, Grendell, Hagan, Hollister, Hoops, Kearns, Kilbane, Latta, Martin, McGregor, Niehaus, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schneider, Seitz, Setzer, Slaby, J. Stewart, Taylor, Trakas, Wagner, Walcher, Webster, White, Widener, Wolpert. To amend sections 5739.031, 5739.033, 5739.034, and 5741.05; to enact section 5739.035; and to repeal the version of section 5739.033 of the Revised Code that results from Section 1 of Am. Sub. H.B. 95 of the 125th General Assembly and to amend Section 4 of Am. Sub. H.B. 168 of the 125th General Assembly, as amended by Sub. H.B. 204 of the 125th General Assembly; to repeal Section 3.18 of Am. Sub. H.B. 95 of the 125th General Assembly, as most recently amended by Sub. H.B. 127 and Sub. H.B. 204, both of the 125th General Assembly; and to repeal Section 8 of Sub. H.B. 204 of the 125th General Assembly to establish a period during which vendors with total Ohio taxable sales of one million dollars or more must make the transition to destination-based sourcing of their sales and to allow origin-based situsing for sales made under certain circumstances.

Said bills were considered the first time.

### CONSIDERATION OF SENATE AMENDMENTS

The Senate amendments to **Am. Sub. H. B. No. 361**-Representative Flowers, et al., were taken up for consideration.

**Am. Sub. H. B. No. 361**-Representatives Flowers, Niehaus, Olman, Reinhard, Faber, Seitz, Allen, Harwood, Martin, Daniels, Strahorn, Carmichael, Beatty, D. Evans, Hagan, Sferra, Sykes. -Senators Roberts, Schuler, Blessing, DiDonato, Robert Gardner, Goodman, Mallory. To amend sections 2307.64, 2913.01, 4931.40, 4931.41, 4931.43, 4931.44, 4931.45, 4931.46, 4931.47, 4931.48, 4931.49, 4931.50, 4931.55, 4931.99, and 5733.55; to amend, for the purpose of adopting a new section number as shown in parentheses, section 4931.55 (4931.75); and to enact sections 4931.60 to 4931.70 of the Revised Code to facilitate the provision of wireless enhanced 9-1-1 by local governments, by establishing requirements for operation, administration, and funding; to permit a wireline telephone company to fund through an existing tax credit nonrecurring rates and charges for an updating or modernization of the wireline network portion of a 9-1-1 system that is not related to wireless enhanced 9-1-1; and to allow a civil action against certain unauthorized facsimile transmissions.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 81, nays 15, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Boccieri	Book	Brown	Buehrer
Callender	Carano	Carmichael	Cates
Clancy	Collier	Combs	Daniels
DeBose	DeGeeter	DeWine	Distel
Domenick	Evans C.	Evans D.	Faber
Fessler	Flowers	Gibbs	Gilb
Grendell	Hagan	Hartnett	Harwood
Hoops	Husted	Jerse	Kearns
Key	Kilbane	Koziura	Latta
Martin	Mason	Miller	Niehaus
Oelslager	Olman	Otterman	Patton T.
Perry	Peterson	Price	Raga
Raussen	Redfern	Reinhard	Schlichter
Schmidt	Schneider	Seitz	Setzer
Skindell	Slaby	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Taylor	Ujvagi	Wagner	Walcher
Webster	White	Widener	Willamowski
Wilson	Wolpert	Woodard	Young
			Householder-81.

Those who voted in the negative were: Representatives

Blasdel	Brinkman	Calvert	Cirelli
Core	Driehaus	Hollister	Hughes
McGregor	Patton S.	Reidelbach	Schaffer
Trakas	Widowfield		Yates-15.

The Senate amendments were concurred in.

The Senate amendments to **Am. Sub. H. B. No. 256**-Representative Setzer, et al., were taken up for consideration.

**Am. Sub. H. B. No. 256**-Representatives Setzer, Fessler, McGregor, Allen, Seaver, Seitz, Sferra, Wolpert, Willamowski, Barrett, Carano, Chandler, Combs, C. Evans, Flowers, Hughes, Key, Martin, Otterman, T. Patton, Price, Schmidt, Webster. -Senator Jacobson. To amend sections 709.45 to 709.48 and to enact sections 709.461 and 709.462 of the Revised Code to revise the Merger Law and to permit certain limited home rule government townships to present referendum petitions at specified special elections.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 96, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Cirelli
Clancy	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Domenick	Driehaus	Evans C.
Evans D.	Faber	Fessler	Flowers
Gibbs	Gilb	Grendell	Hagan
Hartnett	Harwood	Hollister	Hoops
Hughes	Husted	Jerse	Kearns
Key	Kilbane	Koziura	Latta
Martin	Mason	McGregor	Miller
Niehaus	Oelslager	Olman	Otterman
Patton S.	Patton T.	Perry	Peterson
Price	Raga	Raussen	Redfern
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seitz	Setzer
Skindell	Slaby	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Ujvagi	Wagner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wilson	Wolpert
Woodard	Yates	Young	Householder-96.

The Senate amendments were concurred in.

The Senate amendments to **Sub. H. B. No. 331**-Representative Schmidt, et al., were taken up for consideration.

**Sub. H. B. No. 331**-Representatives Schmidt, Schneider, Hughes, Clancy, Raga, Schlichter, Webster, T. Patton, Grendell, Flowers, Barrett, J. Stewart, Miller, Allen, DeBose, McGregor, Latta, S. Patton, Key, Kearns, Brown, Jerse, Beatty, Harwood, Kilbane, Walcher, Price, G. Smith, S. Smith, Cirelli, Hollister, Reidelbach, Aslanides, Bocchieri, Book, Buehrer, Callender, Carano, Carmichael, Cates, Chandler, Collier, Daniels, DeGeeter, Distel, Domenick,

C. Evans, D. Evans, Faber, Gilb, Hagan, Hartnett, Hoops, Koziura, Martin, Mason, Oelslager, Olman, Otterman, Schaffer, Seaver, Setzer, Sferra, Skindell, Slaby, D. Stewart, Strahorn, Sykes, Taylor, Ujvagi, Widener, Widowfield, Willamowski, Wilson, Woodard, Yates. -Senators Hagan, Amstutz, Austria, Blessing, Brady, Carey, Coughlin, Dann, Fedor, Fingerhut, Goodman, Harris, Hottinger, Jacobson, Jordan, Mallory, Miller, Mumper, Nein, Padgett, Prentiss, Randy Gardner, Robert Gardner, Roberts, Schuring, Spada, Wachtmann, White, Zurz. To amend sections 1751.62, 3701.74, 3701.741, 3701.742, 3923.52, 3923.53, and 3923.54 of the Revised Code to cap the benefits health care plans provide for the expense of screening mammographies, an examination that the plans are required to cover, at 130% of the Medicare reimbursement rate, to continue and adjust fee schedules for copies of medical records, and to declare an emergency.

The question being, "Shall the emergency clause stand as part of the bill?"

The yeas and nays were taken and resulted - yeas 80, nays 15, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocieri	Book	Brown
Carano	Carmichael	Cirelli	Clancy
Collier	Combs	Core	Daniels
DeBose	DeGeeter	Distel	Domenick
Driehaus	Evans C.	Evans D.	Flowers
Gibbs	Gilb	Hagan	Hartnett
Harwood	Hoops	Hughes	Jerse
Kearns	Key	Kilbane	Koziura
Latta	Martin	McGregor	Miller
Niehaus	Oelslager	Olman	Otterman
Patton S.	Patton T.	Perry	Peterson
Price	Raga	Raussen	Redfern
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seitz	Setzer
Slaby	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Ujvagi	Wagner	Walcher	Webster
White	Widowfield	Willamowski	Wilson
Wolpert	Woodard	Yates	Householder-80.

Those who voted in the negative were: Representatives

Brinkman	Buehrer	Callender	Calvert
Cates	DeWine	Faber	Grendell
Hollister	Husted	Mason	Skindell
Trakas	Widener		Young-15.

Having received a constitutional majority, the emergency clause stood as part of the bill.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 93, nays 2, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brown
Buehrer	Callender	Calvert	Carano
Carmichael	Cates	Cirelli	Clancy
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Domenick	Driehaus	Evans C.	Evans D.
Faber	Flowers	Gibbs	Gilb
Grendell	Hagan	Hartnett	Harwood
Hollister	Hoops	Hughes	Husted
Jerse	Kearns	Key	Kilbane
Koziura	Latta	Martin	Mason
McGregor	Miller	Niehaus	Oelslager
Olman	Otterman	Patton S.	Patton T.
Perry	Peterson	Price	Raga
Rausen	Redfern	Reidelbach	Reinhard
Schaffer	Schlichter	Schmidt	Schneider
Seitz	Setzer	Skindell	Slaby
Smith G.	Smith S.	Stewart D.	Stewart J.
Strahorn	Sykes	Taylor	Trakas
Ujvagi	Wagner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wilson	Wolpert	Woodard	Yates
			Householder-93.

Representatives Brinkman and Fessler voted in the negative-2.

The Senate amendments were concurred in.

The Senate amendments to **Sub. H. B. No. 411**-Representative Seitz, et al., were taken up for consideration.

**Sub. H. B. No. 411**-Representatives Seitz, Collier, Niehaus, McGregor, Aslanides, Schneider, Webster, Gilb, Wolpert, Schlichter, Sferra, Daniels, Flowers, Barrett, Bocchieri, Driehaus, C. Evans, Grendell, Otterman, Peterson, Rausen, Setzer, Ujvagi, Yates. -Senators Jacobson, Robert Gardner. To amend sections 163.02, 163.09, 163.12, 303.02, 307.08, 307.79, 504.04, 504.19, 505.07, 505.375, 519.02, 3709.41, 6117.012, 6117.39, 6117.51, and 6119.11 and to enact sections 307.561, 504.21, 6101.181, and 6115.221 of the Revised Code to allow a county, township with a limited home rule government, conservancy district, sanitary district, county sewer district, or regional water and sewer district to appropriate, without a prior jury assessment of compensation for the taking, land for the construction of sewers when the Director of Environmental Protection or a local board of health finds that unsanitary conditions compel the immediate construction of the sewers for the protection of the public health and welfare; to revise the rulemaking authority of a board of county commissioners that adopts rules governing erosion control, sediment control, and water management; to permit townships with a limited home rule government to adopt certain erosion control, sediment control, and water management rules; to establish a potential civil fine for violation of those rules; to authorize a board of county commissioners

that has established a county sewer district to adopt rules governing the prevention of sewer back-ups; to exempt certain farm dwellings from certain sewer connections; to authorize the settlement of county-related court actions by consent decrees or court-approved settlement agreements that may include specified rezoning or development agreements; to make changes to the procedures relating to township consent decrees or court-approved settlement agreements; to permit fire and ambulance districts to enter into lease contracts with an option to purchase; to remove a reference to the Oil and Gas Law from the county and township zoning laws; and to require health district licensing councils to meet at least annually rather than quarterly.

The question being, "Shall the Senate amendments be concurred in?"

12/08/04

The Honorable Larry Householder, Speaker  
The Ohio House of Representatives  
Columbus, Ohio

Speaker Householder,

Pursuant to House Rule No. 56, I respectfully request that I be excused from voting on the Senate amendments to **Sub. H.B. No. 411** - Representatives Seitz, et al., because it might be construed that I have an interest in the legislation.

Sincerely yours,  
/s/ CHRIS WIDENER  
State Representative Chris Widener  
84th House District

The request was granted.

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

- |           |            |           |          |
|-----------|------------|-----------|----------|
| Allen     | Aslanides  | Barrett   | Beatty   |
| Blasdel   | Bocchieri  | Book      | Brinkman |
| Brown     | Buehrer    | Callender | Calvert  |
| Carano    | Carmichael | Cates     | Cirelli  |
| Clancy    | Collier    | Combs     | Core     |
| Daniels   | DeBose     | DeGeeter  | DeWine   |
| Distel    | Domenick   | Driehaus  | Evans C. |
| Evans D.  | Faber      | Fessler   | Flowers  |
| Gibbs     | Gilb       | Grendell  | Hagan    |
| Hartnett  | Harwood    | Hollister | Hoops    |
| Hughes    | Husted     | Jerse     | Kearns   |
| Key       | Kilbane    | Koziura   | Latta    |
| Martin    | Mason      | McGregor  | Miller   |
| Niehaus   | Oelslager  | Olman     | Otterman |
| Patton S. | Patton T.  | Perry     | Peterson |

Price	Raga	Raussen	Redfern
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seitz	Setzer
Skindell	Slaby	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Ujvagi	Wagner
Walcher	Webster	White	Widowfield
Willamowski	Wilson	Wolpert	Woodard
Yates	Young		Householder-95.

The Senate amendments were concurred in.

The Senate amendments to **Sub. H. B. No. 414**-Representative Core, et al., were taken up for consideration.

**Sub. H. B. No. 414**-Representatives Core, Wolpert, Setzer, Jerse, Allen, Ujvagi, Webster, Aslanides, Gibbs, Carmichael, Distel, Domenick, C. Evans, Faber, Niehaus, Reinhard, Schlichter, Calvert, Carano, Cates, Chandler, Collier, Daniels, D. Evans, Gilb, Grendell, Hartnett, Hollister, Latta, Otterman, Perry, Redfern, Schmidt, Seaver, Sferra, Strahorn, Yates. -Senator Mumper. To amend section 5709.85 and to enact sections 931.01 to 931.09, 931.99, and 5709.28 of the Revised Code to provide for the establishment of agricultural security areas, to limit development within those areas, and to provide the opportunity for certain tax exemptions for land within those areas.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 1, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brown
Buehrer	Callender	Calvert	Carano
Carmichael	Cates	Cirelli	Clancy
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Domenick	Driehaus	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Grendell	Hagan	Hartnett
Harwood	Hollister	Hoops	Hughes
Husted	Jerse	Kearns	Key
Kilbane	Koziura	Latta	Martin
Mason	McGregor	Miller	Niehaus
Oelslager	Olman	Otterman	Patton S.
Patton T.	Perry	Peterson	Price
Raga	Raussen	Redfern	Reidelbach
Reinhard	Schaffer	Schlichter	Schmidt
Schneider	Seitz	Setzer	Skindell
Slaby	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Walcher
Webster	White	Widener	Widowfield



Willamowski  
Yates

Wilson  
Young

Wolpert

Woodard  
Householder-95.

Representative Brinkman voted in the negative-1.

The Senate amendments were concurred in.

The Senate amendments to **Am. Sub. H. B. No. 449**-Representative Seitz, et al., were taken up for consideration.

**Am. Sub. H. B. No. 449**-Representatives Seitz, Calvert, Collier, Carano, Aslanides, Webster, Setzer, Buehrer, Clancy, D. Evans, McGregor, Schneider, Gibbs, Slaby, Allen, Reidelbach, Schmidt, T. Patton, G. Smith, Hughes, J. Stewart, Barrett, Beatty, Book, Brown, Chandler, Core, DeBose, Domenick, C. Evans, Flowers, Gilb, Hagan, Hollister, Key, Latta, Martin, Niehaus, Olman, Otterman, Perry, Price, Raussen, Schlichter, S. Smith, Strahorn, Widener, Willamowski, Wilson. -Senators Wachtmann, Blessing. To amend sections 145.384, 145.385, 742.26, 3307.352, and 3309.344 of the Revised Code to allow a retirant re-employed in a position covered by a state retirement system to receive a refund of the retirant's contributions in lieu of a benefit for the period of re-employment.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 96, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Cirelli
Clancy	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Domenick	Driehaus	Evans C.
Evans D.	Faber	Fessler	Flowers
Gibbs	Gilb	Grendell	Hagan
Hartnett	Harwood	Hollister	Hoops
Hughes	Husted	Jerse	Kearns
Key	Kilbane	Koziura	Latta
Martin	Mason	McGregor	Miller
Niehaus	Oelslager	Olman	Otterman
Patton S.	Patton T.	Perry	Peterson
Price	Raga	Raussen	Redfern
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seitz	Setzer
Skindell	Slaby	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Ujvagi	Wagner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wilson	Wolpert
Woodard	Yates	Young	Householder-96.

The Senate amendments were concurred in.

The Senate amendments to **Am. H. B. No. 498**-Representative Faber, et al., were taken up for consideration.

**Am. H. B. No. 498**-Representatives Faber, Buehrer, Young, Gibbs, Wagner, Seitz, Brinkman, Aslanides, Setzer, Reinhard, Combs, Hagan, Niehaus, Collier, Clancy, D. Evans, Schaffer, Fessler, Webster, Cates, Blasdel, Calvert, Carmichael, Core, Daniels, DeWine, C. Evans, Flowers, Gilb, Hollister, Hoops, Kearns, Martin, Peterson, Reidelbach, Schlichter, Schmidt, Schneider, Taylor, Widowfield, Wolpert. -Senators Mumper, Wachtmann, Amstutz, Hottinger, Jordan, Spada. To enact new section 2745.01 and to repeal sections 2305.112 and 2745.01 of the Revised Code to replace the existing statutory provisions on employment intentional torts with a requirement that the plaintiff in a civil action based on an employment intentional tort prove that the employer acted with intent to injure another or in the belief that the injury was substantially certain to occur.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 70, nays 24, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Brinkman	Buehrer
Callender	Calvert	Carmichael	Cates
Clancy	Collier	Combs	Core
Daniels	DeWine	Domenick	Driehaus
Evans C.	Evans D.	Fessler	Flowers
Gibbs	Gilb	Grendell	Hagan
Hartnett	Hollister	Hoops	Hughes
Husted	Jerse	Kearns	Kilbane
Koziura	Latta	Martin	McGregor
Niehaus	Olman	Patton T.	Perry
Peterson	Raga	Raussen	Redfern
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seitz	Setzer
Skindell	Slaby	Smith G.	Stewart D.
Stewart J.	Taylor	Trakas	Wagner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wilson	Wolpert
Young			Householder-70.

Those who voted in the negative were: Representatives

Allen	Barrett	Bocchieri	Book
Brown	Carano	Cirelli	DeBose
DeGeeter	Distel	Harwood	Key
Mason	Miller	Oelslager	Otterman
Patton S.	Price	Smith S.	Strahorn
Sykes	Ujvagi	Woodard	Yates-24.

The Senate amendments were concurred in.

On motion of Representative Cates, the House recessed.

The House met pursuant to recess.

## REPORTS OF STANDING AND SELECT COMMITTEES AND BILLS FOR SECOND CONSIDERATION

Representative Distel submitted the following report:

The standing committee on Commerce and Labor to which was referred **Sub. S. B. No. 196**-Senator Wachtmann, et al., having had the same under consideration, reports it back as a substitute bill and recommends its passage.

RE: PHARMACISTS - DANGEROUS DRUGS TO PROVIDERS

Representative Schaffer moved to amend the title as follows:

Add the names: "Representatives Combs, Miller, DeGeeter, McGregor, Collier, Distel, Schaffer."

COURTNEY COMBS  
THOM COLLIER  
TIMOTHY J. DEGEETER  
L. GEORGE DISTEL

DALE MILLER  
TIMOTHY O. SCHAFFER  
JIM MCGREGOR

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative Chandler submitted the following report:

The standing committee on County and Township Government to which was referred **Sub. S. B. No. 277**-Senator Spada, et al., having had the same under consideration, reports it back and recommends its passage.

RE: OHIO VETERANS HALL OF FAME CREATE

Representative Wolpert moved to amend the title as follows:

Add the names: "Representatives Wolpert, Daniels, Collier, Combs, C. Evans, Walcher, Wagner, McGregor, DeGeeter, Skindell, Cirelli, Domenick, Schlichter."

LARRY L. WOLPERT  
JEFF WAGNER  
JIM MCGREGOR  
COURTNEY COMBS  
JOHN DOMENICK  
JOHN SCHLICHTER  
TIMOTHY J. DEGEETER

MICHAEL J. SKINDELL  
DAVID DANIELS  
THOM COLLIER  
KATHLEEN WALCHER  
CLYDE EVANS  
MARY M. CIRELLI

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative Sferra submitted the following report:

The standing committee on Municipal Government and Urban Revitalization to which was referred **Sub. S. B. No. 18**-Senator Coughlin, having had the same under consideration, reports it back as a substitute bill and recommends its passage.

RE: COMPOSITION OF CERTAIN METROPOLITAN HOUSING AUTHORITY

ARLENE J. SETZER	LYNN E. OLMAN
WILLIAM J. SEITZ	W. SCOTT OELSLAGER
LARRY L. WOLPERT	JOHN A. BOCCIERI
ANNIE L. KEY	JOHN R. WILLAMOWSKI
NANCY P. HOLLISTER	MARILYN SLABY
JIM RAUSSEN	LARRY PRICE

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative S. Smith submitted the following report:

The standing committee on Health to which was referred **Sub. S. B. No. 222**-Senator Carey, et al., having had the same under consideration, reports it back and recommends its passage.

RE: MUNICIPAL HOSPITAL - MODIFY LAWS

JAMES M. HOOPS	CATHERINE L. BARRETT
COURTNEY COMBS	EARL MARTIN
LINDA REIDELBACH	MARILYN SLABY
DIANA M. FESSLER	GEOFFREY C. SMITH
MICHELLE G. SCHNEIDER	SHIRLEY A. SMITH
MARY M. CIRELLI	TYRONE K. YATES
LARRY PRICE	JOHN J. WHITE

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative S. Smith submitted the following report:

The standing committee on Health to which was referred **H. B. No. 554**-Representative Clancy, et al., having had the same under consideration, reports it back and recommends its passage.

RE: BREAST FEEDING ALLOWED IN PUBLIC ACCOMMODATIONS

Representative White moved to amend the title as follows:

Add the names: "Cirelli, Yates, DeBose, S. Smith, Schneider, Beatty, Combs, White, Hollister."

NANCY P. HOLLISTER	TYRONE K. YATES
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JAMES M. HOOPS  
 MARY M. CIRELLI  
 MARILYN SLABY  
 JOYCE BEATTY  
 LINDA REIDELBACH  
 MERLE GRACE KEARNS  
 MICHELLE G. SCHNEIDER  
 DIANA M. FESSLER  
 JOHN J. WHITE

GEOFFREY C. SMITH  
 CATHERINE L. BARRETT  
 MICHAEL DEBOSE  
 COURTNEY COMBS  
 LYNN E. OLMAN  
 SHIRLEY A. SMITH  
 CHARLES R. BLASDEL  
 EARL MARTIN

The following member voted "NO"

SANDRA STABILE HARWOOD

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative S. Smith submitted the following report:

The standing committee on Health to which was referred **S. C. R. No. 33**-Senator Stivers, et al., having had the same under consideration, reports it back and recommends its adoption.

RE: TASK FORCE FOR PRESERVING ADULT VISION

Representative White moved to amend the title as follows:

Add the names: "Representatives Cirelli, Barrett, Price, G. Smith, Slaby, Reidelbach, S. Smith, Hoops, Martin."

JAMES M. HOOPS  
 COURTNEY COMBS  
 LINDA REIDELBACH  
 DIANA M. FESSLER  
 MICHELLE G. SCHNEIDER  
 MARY M. CIRELLI  
 LARRY PRICE

CATHERINE L. BARRETT  
 EARL MARTIN  
 MARILYN SLABY  
 GEOFFREY C. SMITH  
 SHIRLEY A. SMITH  
 TYRONE K. YATES  
 JOHN J. WHITE

The report was agreed to.

The concurrent resolution was ordered to be engrossed and placed on the calendar.

Representative Yates submitted the following report:

The standing committee on Ways and Means to which was referred **Sub. S. B. No. 218**-Senator Amstutz, et al., having had the same under consideration, reports it back and recommends its passage.

RE: PIGGY-BACK SALES TAX RETURN - UNDER OLD LAW

Representative Kilbane moved to amend the title as follows:

Add the name: "Representative Collier."

STEVE L. DRIEHAUS	MICHAEL J. SKINDELL
BARBARA A. SYKES	SALLY CONWAY KILBANE
MARY TAYLOR	TIMOTHY O. SCHAFFER
ROBERT J. OTTERMAN	THOM COLLIER
CHARLES R. BLASDEL	TOM NIEHAUS
JIM RAUSSEN	TYRONE K. YATES
KENNETH A. CARANO	PETER UJVAGI
TONY CORE	

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative S. Smith submitted the following report:

The standing committee on Health to which was referred **S. B. No. 250**-Senator Coughlin, et al., having had the same under consideration, reports it back as a substitute bill and recommends its passage.

RE: OHIO CYSTIC FIBROSIS AWARENESS MONTH - MAY

Representative White moved to amend the title as follows:

Add the names: "Representatives White, Fessler, Blasdel, Combs, Hollister, Hoops, Kearns, Martin, Olman, Reidelbach, Schneider, Slaby, G. Smith, S. Smith, Barrett, Beatty, Cirelli, DeBose, Harwood, Price, Yates."

TYRONE K. YATES	JAMES M. HOOPS
SHIRLEY A. SMITH	JOHN J. WHITE
SANDRA STABILE HARWOOD	COURTNEY COMBS
EARL MARTIN	LYNN E. OLMAN
DIANA M. FESSLER	LARRY PRICE
JOYCE BEATTY	MICHAEL DEBOSE
MARILYN SLABY	CATHERINE L. BARRETT
NANCY P. HOLLISTER	GEOFFREY C. SMITH
MICHELLE G. SCHNEIDER	MARY M. CIRELLI
MERLE GRACE KEARNS	CHARLES R. BLASDEL
LINDA REIDELBACH	

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

### MOTIONS AND RESOLUTIONS

Representative Wilson reported for the Rules and Reference Committee recommending that the following House Resolutions be read by title only and approved:

**H.R. No. 287 - Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Bocchieri, Book, Brinkman, Brown, Buehrer, Callender, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Jerse, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wilson, Wolpert, Woodard, Yates**

HONORING REPRESENTATIVE RON YOUNG ON HIS SERVICE TO THE OHIO HOUSE OF REPRESENTATIVES

**H.R. No. 288 - Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Bocchieri, Book, Brinkman, Brown, Buehrer, Callender, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Jerse, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wolpert, Woodard, Yates, Young**

HONORING REPRESENTATIVE CHARLIE WILSON ON HIS SERVICE TO THE OHIO HOUSE OF REPRESENTATIVES

**H.R. No. 289 - Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Bocchieri, Book, Brinkman, Brown, Buehrer, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Jerse, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wilson, Wolpert, Woodard, Yates, Young**

HONORING REPRESENTATIVE JAMIE CALLENDER ON HIS SERVICE  
TO THE OHIO HOUSE OF REPRESENTATIVES

**H.R. No. 290 - Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Bocchieri, Book, Brinkman, Brown, Buehrer, Callender, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wilson, Wolpert, Woodard, Yates, Young**

HONORING REPRESENTATIVE EDWARD S. JERSE ON HIS SERVICE  
TO THE OHIO HOUSE OF REPRESENTATIVES

/s/ LARRY HOUSEHOLDER  
Larry Householder, Chair

Representative Cates moved that the Rules and Reference Committee Report on resolutions be agreed to and that the resolutions contained therein be approved.

The motion was agreed to.

Representative Trakas moved that majority party members asking leave to be absent or absent the week of Tuesday, December 7, 2004, be excused, so long as a written request is on file in the majority leadership offices.

The motion was agreed to.

Representative Miller moved that minority party members asking leave to be absent or absent the week of Tuesday, December 7, 2004, be excused, so long as a written request is on file in the minority leadership offices.

The motion was agreed to.

On motion of Representative Cates, the House recessed.

The House met pursuant to recess.

### **BILLS FOR THIRD CONSIDERATION**

**Sub. S. B. No. 80**-Senators Stivers, Hottinger, Goodman, Wachtmann, Amstutz, Randy Gardner, Austria, Nein, Schuring, Armbruster, Coughlin, Carey, Harris, Mumper, Schuler.

To amend sections 1775.14, 2117.06, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75,



2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and 4513.263; to enact sections 2305.131, 2307.711, 2315.19, 2315.20, and 2323.44; and to repeal sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised Code to make changes related to the award of certain damages, collateral benefits evidence, and contributory fault in tort actions; to establish a statute of repose for certain product liability claims and claims based on unsafe conditions of real property improvements and to make other changes related to product liability claims; to provide that the product liability statutes are intended to abrogate common law product liability causes of action; to enact a conflicts of law provision for statutes of limitation in civil actions; to modify the provisions on frivolous conduct in filing civil actions; and to make other changes related to civil actions, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Oelslager moved that **Sub. S. B. No. 80**-Senator Stivers, et al., be informally passed and retain its place on the calendar.

The motion was agreed to.

**Sub. S. B. No. 115**-Senator Robert Gardner.

To amend sections 505.75, 711.001, 711.10, 711.131, 711.132, 713.21, and 713.22 and to enact section 711.133 of the Revised Code to permit the exemption from the definition of "subdivision" in the Platting Law of certain parcels of land, to permit the regulation of certain parcels between four and twenty acres for approval without plat, to change the procedure for the approval of plats by county or regional planning commissions, to provide different methods for implementing the statute authorizing the approval of certain subdivisions without the submission of a plat, to permit the payment of compensation to the appointive members of county or regional planning commissions, to permit townships to contract with other townships to administer and enforce building regulations, and to authorize the conveyance of certain state-owned real estate located in Summit County, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Daniels moved that **Sub. S. B. No. 115**-Senator Robert Gardner, be informally passed and retain its place on the calendar.

The motion was agreed to.

**Sub. S. B. No. 18**-Senator Coughlin.

To amend sections 303.02, 303.161, 519.02, 519.171, and 3735.27 and to enact section 3313.537 of the Revised Code to change the composition of certain metropolitan housing authorities, to alter the purposes for and scope of county and township zoning regulations, to permit counties and townships to

have landscaping and architectural standards in their zoning codes in any zone, and to allow students enrolled in a community school sponsored by their school district to participate in extracurricular activities at the school district schools to which they otherwise would be assigned, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Driehaus moved to amend as follows:

In line 218, strike through "or"

In line 219, after "(E)" insert "or (F)"

In line 271, after "(C)" insert "(1)"

In line 281, before "At" insert "(2)"

Strike through lines 309 through 311

In line 312, strike through "At" and insert:

"(3) At"; strike through "initial"

In line 313, strike through ", after March 15, 1983,"

In line 314, strike through the period

Strike through lines 315 and 316

In line 317, strike through "appointment, or" and insert ", and the member appointed"; strike through the second comma

In line 333, after "thousand" insert "but not more than eight hundred thousand persons"

In line 356, after "(1)" insert "Divisions (E)(1) to (5) of this section apply to any metropolitan housing authority district located in a county that had, as of the 2000 federal census, a population of less than one million but more than eight hundred thousand persons. In such a district, three members shall be appointed by the chief executive officer of the most populous city in the district, with the approval of the legislative authority of that city, and two members shall be appointed by the board of county commissioners.

(2) For a newly created metropolitan housing authority to which this division applies, at the time of the initial appointment of the authority, the chief executive officer of the most populous city shall appoint one member for an initial term of four years, one member for an initial term of three years, and one member for an initial term of two years. The board of county commissioners shall appoint one member for an initial term of one year and one member for an initial term of five years.

(3) For any metropolitan housing authority to which this division applies, and that is in existence when this division becomes effective, the board of county

commissioners shall appoint a member to fill the next vacancy that occurs due to the expiration of the term of a member appointed by the probate court, and the chief executive officer of the most populous city shall fill the next vacancy that occurs due to the expiration of the term of a member appointed by the court of common pleas. The terms shall be for five years. The two members appointed by the chief executive officer of the most populous city and the member appointed by the board of county commissioners who serve on the authority at the time this division becomes effective shall continue to serve in the manner provided when they were appointed.

(4) At least one of the members the chief executive officer of the most populous city appoints pursuant to this division shall be a resident of a dwelling unit owned or managed by the housing authority. At no time shall residents constitute a majority of the members of the authority.

(5) After the initial appointments, the terms of all members of the authority appointed pursuant to this division shall be for five years with each term ending on the same day of the same month as did the term that it succeeds. Vacancies shall be filled in the manner provided for the initial appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

(F)(1)"

In line 380, strike through "(F)" and insert "(G)"

In line 394, delete "(G)" and insert "(H)"

The question being, "Shall the motion to amend be agreed to?"

Representative Husted moved the previous question. This motion under House Rule 99 is supported by the following members:

JON A. HUSTED  
W. SCOTT OELSLAGER  
KEVIN DEWINE

TIMOTHY J. GRENDELL  
CHARLES R. BLASDEL

The question being, "Shall the debate now close?"

The yeas and nays were taken and resulted - yeas 65, nays 26, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Buehrer
Calvert	Carmichael	Cates	Cirelli
Clancy	Collier	Combs	Core
Daniels	DeGeeter	DeWine	Evans C.
Evans D.	Faber	Fessler	Flowers
Gibbs	Gilb	Grendell	Hagan
Hartnett	Hollister	Hoops	Hughes
Husted	Kearns	Kilbane	Latta
Martin	McGregor	Niehaus	Oelslager

Olman	Otterman	Patton T.	Perry
Peterson	Raga	Raussen	Reidelbach
Reinhard	Schaffer	Schlichter	Schmidt
Schneider	Seitz	Setzer	Slaby
Smith G.	Stewart J.	Taylor	Wagner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Young
			Householder-65.

Those who voted in the negative were: Representatives

Barrett	Beatty	Bocchieri	Book
Brinkman	Brown	Callender	Carano
Chandler	DeBose	Driehaus	Jerse
Koziura	Mason	Miller	Patton S.
Redfern	Skindell	Smith S.	Strahorn
Sykes	Trakas	Ujvagi	Wilson
Woodard			Yates-26.

The motion was agreed to and the debate closed.

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 30, nays 63, as follows:

Those who voted in the affirmative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Chandler	Cirelli	DeGeeter	Domenick
Driehaus	Flowers	Hartnett	Jerse
Koziura	Mason	Miller	Niehaus
Otterman	Patton S.	Price	Redfern
Schlichter	Skindell	Strahorn	Ujvagi
Wilson			Woodard-30.

Those who voted in the negative were: Representatives

Aslanides	Blasdel	Buehrer	Callender
Calvert	Carmichael	Cates	Clancy
Collier	Combs	Core	Daniels
DeBose	DeWine	Evans C.	Evans D.
Faber	Fessler	Gibbs	Gilb
Grendell	Hagan	Hollister	Hoops
Hughes	Husted	Kearns	Kilbane
Latta	Martin	McGregor	Oelsluger
Olman	Patton T.	Perry	Peterson
Raga	Raussen	Reidelbach	Reinhard
Schaffer	Schmidt	Schneider	Seitz
Setzer	Slaby	Smith G.	Smith S.
Stewart J.	Sykes	Taylor	Trakas
Wagner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert
Yates	Young		Householder-63.

The motion to amend was not agreed to.

The question recurring, "Shall the bill pass?"

Representative Callender moved to amend as follows:

In line 31, between "board" and "by" insert a ","

The question being, "Shall the motion to amend be agreed to?"

The motion was agreed to without objection.

The question being, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 80, nays 10, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Book	Brinkman	Brown
Buehrer	Calvert	Carano	Carmichael
Cates	Cirelli	Clancy	Collier
Combs	Core	Daniels	DeGeeter
DeWine	Evans C.	Evans D.	Faber
Fessler	Flowers	Gibbs	Gilb
Grendell	Hagan	Hartnett	Harwood
Hollister	Hoops	Hughes	Husted
Jerse	Kearns	Key	Kilbane
Koziura	Latta	Martin	McGregor
Miller	Niehaus	Oelslager	Olman
Patton S.	Patton T.	Perry	Peterson
Raga	Raussen	Redfern	Reidelbach
Reinhard	Schaffer	Schlichter	Schmidt
Schneider	Seitz	Setzer	Slaby
Smith G.	Smith S.	Stewart J.	Taylor
Ujvagi	Wagner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wilson	Wolpert	Young	Householder-80.

Those who voted in the negative were: Representatives

Bocieri	Chandler	DeBose	Domenick
Driehaus	Mason	Skindell	Stewart D.
Strahorn			Yates-10.

The bill passed.

The title was agreed to.

**Sub. S. B. No. 33**-Senators Armbruster, Robert Gardner, Harris.  
-Representative Key.

To amend sections 1345.81, 4738.01, 4738.03, 4738.04, 4738.05, 4738.18, 4738.19, 4738.99, 4775.01, 4775.02, 4775.03, 4775.04, 4775.05, 4775.06, 4775.07, 4775.08, 4775.09, 4775.10, 4775.11, 4775.99, and 5703.21, to enact sections 109.579, 4738.20, 4738.21, 4738.22, and 4738.23 of the Revised Code to establish a two-year renewal cycle for licenses and buyer's

identification cards related to salvage motor vehicles, to require a compliance inspection of a licensed motor vehicle salvage dealer, pool, or auction as a condition of license renewal and retention of any buyer's identification card, to establish criminal records check requirements for certain motor vehicle salvage dealers and persons who hold a buyer's identification card, to allow licensed salvage motor vehicle auctions or pools to sell salvage motor vehicles only to specified authorized purchasers, to permit the sale of salvage motor vehicles to authorized purchasers via the Internet, to require the registration of motor vehicle mechanical repair facilities, to change the name of the Board of Motor Vehicle Collision Repair Registration to the Board of Motor Vehicle Repair Registration, and to amend section 4775.03 of the Revised Code on July 1, 2005, to dissolve the Board of Motor Vehicle Repair Registration and replace it with a new board of the same name, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Reinhard moved to amend as follows:

In line 7 of the title, after "Code" delete the balance of the line

Delete line 8 of the title

In line 9 of the title, delete "related to salvage motor vehicles,"

The question being, "Shall the motion to amend be agreed to?"

The motion was agreed to without objection.

The question being, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 84, nays 9, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Boccieri	Book	Brinkman	Brown
Buehrer	Callender	Calvert	Carmichael
Cates	Chandler	Clancy	Collier
Combs	Core	Daniels	DeBose
DeGeeter	DeWine	Driehaus	Evans C.
Evans D.	Faber	Fessler	Flowers
Gibbs	Gilb	Grendell	Hagan
Harwood	Hollister	Hoops	Hughes
Husted	Jerse	Kearns	Key
Kilbane	Koziura	Latta	Martin
Mason	McGregor	Niehaus	Oelslager
Olman	Otterman	Patton T.	Perry
Peterson	Price	Raga	Rausen
Redfern	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Skindell	Slaby	Smith G.
Stewart D.	Stewart J.	Taylor	Ujvagi
Wagner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert

Woodard

Yates

Young

Householder-84.

Those who voted in the negative were: Representatives

Blasdel  
MillerCarano  
Patton S.Cirelli  
Smith S.Hartnett  
Strahorn  
Wilson-9.

The bill passed.

Representative Reinhard moved to amend the title as follows:

Add the name: "Schmidt."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**Sub. S. B. No. 71**-Senators Goodman, Harris, Amstutz, Fingerhut, Blessing, DiDonato, Robert Gardner, Schuler, Stivers. -Representatives Seitz, Grendell, Willamowski, Latta.

To amend sections 1901.141, 2301.02, 2313.08, 2313.10, 2313.11, 2313.12, 2313.13, 2313.15, 2313.16, 2313.18, 2313.25, 2313.26, 2313.30, 2313.34, 2313.99, 2335.28, 2945.28, and 2947.23 and to enact section 2313.251 of the Revised Code to change the penalties for failure to attend as required by a notice for jury service and to serve as a juror, to change the circumstances under and methods by which jury service may be postponed, to provide protections for employees and small employers when employees are summoned for jury service, to eliminate the cap on juror compensation, to shorten the period of jury service after which a juror may be discharged, to allow the commissioners of jurors to establish an electronic notification system to allow jurors to be notified electronically that the juror shall attend in person the term or part of the term specified in the notice, to make other changes to the jury selection procedures, to eliminate the four-day maximum on the amount of jury fees that are taxed as costs in a civil action, to permit costs of summoning jurors to be assessed against a defendant in certain nonjury criminal trials, to expand the circumstances in which a municipal court judge may appoint special constables to also include circumstances in which the municipal court has countywide jurisdiction and is a successor court of a county court that previously served the county, and to add one judge to the Clermont County Court of Common Pleas, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Seitz moved to amend as follows:

In line 32, after "sections" insert "124.38,"

Between lines 36 and 37, insert:

"**Sec. 124.38.** Each of the following shall be entitled for each completed eighty hours of service to sick leave of four and six-tenths hours with pay:

(A) Employees in the various offices of the county, municipal, and civil service township service, other than superintendents and management employees, as defined in section 5126.20 of the Revised Code, of county boards of mental retardation and developmental disabilities;

(B) Employees of any state college or university;

(C) Employees of any board of education for whom sick leave is not provided by section 3319.141 of the Revised Code.

Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, pregnancy, injury, exposure to contagious disease that could be communicated to other employees, and illness, injury, or death in the employee's immediate family. Unused sick leave shall be cumulative without limit. When sick leave is used, it shall be deducted from the employee's credit on the basis of one hour for every one hour of absence from previously scheduled work.

The previously accumulated sick leave of an employee who has been separated from the public service shall be placed to the employee's credit upon the employee's re-employment in the public service, provided that such re-employment takes place within ten years of the date on which the employee was last terminated from public service. ~~An~~ This ten-year period shall be tolled for any period during which the employee holds elective public office, whether by election or by appointment.

An employee who transfers from one public agency to another shall be credited with the unused balance of the employee's accumulated sick leave up to the maximum of the sick leave accumulation permitted in the public agency to which the employee transfers.

The appointing authorities of the various offices of the county service may permit all or any part of a person's accrued but unused sick leave acquired during service with any regional council of government established in accordance with Chapter 167. of the Revised Code to be credited to the employee upon a transfer as if the employee were transferring from one public agency to another under this section.

The appointing authority of each employing unit shall require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician shall be required to justify the use of sick leave. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action, including dismissal.

This section does not interfere with existing unused sick leave credit in any agency of government where attendance records are maintained and credit has been given employees for unused sick leave.



Notwithstanding this section or any other section of the Revised Code, any appointing authority of a county office, department, commission, board, or body may, upon notification to the board of county commissioners, establish alternative schedules of sick leave for employees of the appointing authority for whom the state employment relations board has not established an appropriate bargaining unit pursuant to section 4117.06 of the Revised Code, provided that the alternative schedules are not inconsistent with the provisions of a collective bargaining agreement covering other employees of that appointing authority."

In line 922, after "sections" insert "124.38,"

In line 1 of the title, after "sections" insert "124.38,"

In line 30 of the title, delete "and"

In line 31 of the title, after "Pleas" insert ", and to modify the crediting of unused sick leave of public officials returning to public employment"

The question being, "Shall the motion to amend be agreed to?"

12/8/04

The Honorable Larry Householder, Speaker  
The Ohio House of Representatives  
Columbus, Ohio  
Speaker Householder,

Pursuant to House Rule No. 56, I respectfully request that I be excused from voting on **Sub. S. B. No. 71**-Senator Goodman, et al., because it might be construed that I have an interest in the legislation.

Sincerely yours,

/s/ JIM HUGHES  
JIM HUGHES  
State Representative  
22nd House District

The request was granted.

12-8-04

The Honorable Larry Householder, Speaker  
The Ohio House of Representatives  
Columbus, Ohio  
Speaker Householder,

Pursuant to House Rule No. 56, I respectfully request that I be excused from voting on **Sub. S. B. No. 71**-Senator Goodman, et al., because it might be construed that I have an interest in the legislation.

Sincerely yours,

/s/ PATRICIA M. CLANCY  
 PATRICIA M. CLANCY  
 State Representative  
 29th House District

The request was granted.

The yeas and nays were taken and resulted - yeas 89, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Calvert	Carano
Carmichael	Cates	Chandler	Cirelli
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Domenick
Driehaus	Evans C.	Evans D.	Faber
Flowers	Gibbs	Gilb	Grendell
Hagan	Hartnett	Harwood	Hollister
Hoops	Husted	Jerse	Kearns
Key	Kilbane	Koziura	Latta
Martin	Mason	McGregor	Miller
Niehaus	Oelslager	Olman	Otterman
Patton S.	Perry	Peterson	Price
Raga	Rausen	Redfern	Reidelbach
Reinhard	Schaffer	Schlichter	Schmidt
Schneider	Seitz	Setzer	Skindell
Slaby	Smith G.	Smith S.	Stewart J.
Strahorn	Sykes	Taylor	Ujvagi
Wagner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wilson
Wolpert	Woodard	Yates	Young
			Householder-89.

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

Representative T. Patton moved to amend as follows:

In line 32, after "sections" insert "1901.08,"

Between lines 36 and 37, insert:

"**Sec. 1901.08.** The number of, and the time for election of, judges of the following municipal courts and the beginning of their terms shall be as follows:

In the Akron municipal court, two full-time judges shall be elected in 1951, two full-time judges shall be elected in 1953, one full-time judge shall be elected in 1967, and one full-time judge shall be elected in 1975.

In the Alliance municipal court, one full-time judge shall be elected in 1953.

In the Ashland municipal court, one full-time judge shall be elected in 1951.

In the Ashtabula municipal court, one full-time judge shall be elected in 1953.

In the Athens county municipal court, one full-time judge shall be elected in 1967.

In the Auglaize county municipal court, one full-time judge shall be elected in 1975.

In the Avon Lake municipal court, one part-time judge shall be elected in 1957.

In the Barberton municipal court, one full-time judge shall be elected in 1969, and one full-time judge shall be elected in 1971.

In the Bedford municipal court, one full-time judge shall be elected in 1975, and one full-time judge shall be elected in 1979.

In the Bellefontaine municipal court, one full-time judge shall be elected in 1993.

In the Bellevue municipal court, one part-time judge shall be elected in 1951.

In the Berea municipal court, one ~~part-time~~full-time judge shall be elected in 1957, ~~term to commence on the first day of January next after election, and one part-time judge shall be elected in 1981, term to commence on the second day of January next after election. The part-time judge elected in 1987 whose term commenced on January 1, 1988, shall serve until December 31, 1993, and the office of that judge is abolished, effective on the earlier of December 31, 1993, or the date on which that judge resigns, retires, or otherwise vacates judicial office~~2005.

In the Bowling Green municipal court, one full-time judge shall be elected in 1983.

In the Brown county municipal court, one full-time judge shall be elected in 2005. Beginning February 9, 2003, the part-time judge of the Brown county county court that existed prior to that date whose term commenced on January 2, 2001, shall serve as the full-time judge of the Brown county municipal court

until December 31, 2005.

In the Bryan municipal court, one full-time judge shall be elected in 1965.

In the Cambridge municipal court, one full-time judge shall be elected in 1951.

In the Campbell municipal court, one part-time judge shall be elected in 1963.

In the Canton municipal court, one full-time judge shall be elected in 1951, one full-time judge shall be elected in 1969, and two full-time judges shall be elected in 1977.

In the Celina municipal court, one full-time judge shall be elected in 1957.

In the Champaign county municipal court, one full-time judge shall be elected in 2001.

In the Chardon municipal court, one part-time judge shall be elected in 1963.

In the Chillicothe municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1977.

In the Circleville municipal court, one full-time judge shall be elected in 1953.

In the Clark county municipal court, one full-time judge shall be elected in 1989, and two full-time judges shall be elected in 1991. The full-time judges of the Springfield municipal court who were elected in 1983 and 1985 shall serve as the judges of the Clark county municipal court from January 1, 1988, until the end of their respective terms.

In the Clermont county municipal court, two full-time judges shall be elected in 1991, and one full-time judge shall be elected in 1999.

In the Cleveland municipal court, six full-time judges shall be elected in 1975, three full-time judges shall be elected in 1953, and four full-time judges shall be elected in 1955.

In the Cleveland Heights municipal court, one full-time judge shall be elected in 1957.

In the Clinton county municipal court, one full-time judge shall be elected in 1997. The full-time judge of the Wilmington municipal court who was elected in 1991 shall serve as the judge of the Clinton county municipal court from July 1, 1992, until the end of that judge's term on December 31, 1997.

In the Columbiana county municipal court, two full-time judges shall be elected in 2001

In the Conneaut municipal court, one full-time judge shall be elected in 1953.

In the Coshocton municipal court, one full-time judge shall be elected in 1951.

In the Crawford county municipal court, one full-time judge shall be elected in 1977.

In the Cuyahoga Falls municipal court, one full-time judge shall be elected in 1953, and one full-time judge shall be elected in 1967.

In the Darke county municipal court, one full-time judge shall be elected in 2005. Beginning January 1, 2005, the part-time judge of the Darke county court that existed prior to that date whose term began on January 1, 2001, shall serve as the full-time judge of the Darke county municipal court until December 31, 2005.

In the Dayton municipal court, three full-time judges shall be elected in 1987, their terms to commence on successive days beginning on the first day of January next after their election, and two full-time judges shall be elected in 1955, their terms to commence on successive days beginning on the second day of January next after their election.

In the Defiance municipal court, one full-time judge shall be elected in 1957.

In the Delaware municipal court, one full-time judge shall be elected in 1953.

In the East Cleveland municipal court, one full-time judge shall be elected in 1957.

In the East Liverpool municipal court, one full-time judge shall be elected in 1953.

In the Eaton municipal court, one full-time judge shall be elected in 1973.

In the Elyria municipal court, one full-time judge shall be elected in 1955, and one full-time judge shall be elected in 1973.

In the Euclid municipal court, one full-time judge shall be elected in 1951.

In the Fairborn municipal court, one full-time judge shall be elected in 1977.

In the Fairfield county municipal court, one full-time judge shall be elected in 2003, and one full-time judge shall be elected in 2005.

In the Fairfield municipal court, one full-time judge shall be elected in 1989.

In the Findlay municipal court, one full-time judge shall be elected in

1955, and one full-time judge shall be elected in 1993.

In the Fostoria municipal court, one full-time judge shall be elected in 1975.

In the Franklin municipal court, one part-time judge shall be elected in 1951.

In the Franklin county municipal court, two full-time judges shall be elected in 1969, three full-time judges shall be elected in 1971, seven full-time judges shall be elected in 1967, one full-time judge shall be elected in 1975, one full-time judge shall be elected in 1991, and one full-time judge shall be elected in 1997.

In the Fremont municipal court, one full-time judge shall be elected in 1975.

In the Gallipolis municipal court, one full-time judge shall be elected in 1981.

In the Garfield Heights municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1981.

In the Girard municipal court, one full-time judge shall be elected in 1963.

In the Hamilton municipal court, one full-time judge shall be elected in 1953.

In the Hamilton county municipal court, five full-time judges shall be elected in 1967, five full-time judges shall be elected in 1971, two full-time judges shall be elected in 1981, and two full-time judges shall be elected in 1983. All terms of judges of the Hamilton county municipal court shall commence on the first day of January next after their election, except that the terms of the additional judges to be elected in 1981 shall commence on January 2, 1982, and January 3, 1982, and that the terms of the additional judges to be elected in 1983 shall commence on January 4, 1984, and January 5, 1984.

In the Hardin county municipal court, one part-time judge shall be elected in 1989.

In the Hillsboro municipal court, one part-time judge shall be elected in 1957.

In the Hocking county municipal court, one full-time judge shall be elected in 1977.

In the Huron municipal court, one part-time judge shall be elected in 1967.

In the Ironton municipal court, one full-time judge shall be elected in 1951.

In the Jackson county municipal court, one full-time judge shall be

elected in 2001. On and after March 31, 1997, the part-time judge of the Jackson county municipal court who was elected in 1995 shall serve as a full-time judge of the court until the end of that judge's term on December 31, 2001.

In the Kettering municipal court, one full-time judge shall be elected in 1971, and one full-time judge shall be elected in 1975.

In the Lakewood municipal court, one full-time judge shall be elected in 1955.

In the Lancaster municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1979. Beginning January 2, 2000, the full-time judges of the Lancaster municipal court who were elected in 1997 and 1999 shall serve as judges of the Fairfield county municipal court until the end of those judges' terms.

In the Lawrence county municipal court, one part-time judge shall be elected in 1981.

In the Lebanon municipal court, one part-time judge shall be elected in 1955.

In the Licking county municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1971.

In the Lima municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1967.

In the Lorain municipal court, one full-time judge shall be elected in 1953, and one full-time judge shall be elected in 1973.

In the Lyndhurst municipal court, one part-time judge shall be elected in 1957.

In the Madison county municipal court, one full-time judge shall be elected in 1981.

In the Mansfield municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1969.

In the Marietta municipal court, one full-time judge shall be elected in 1957.

In the Marion municipal court, one full-time judge shall be elected in 1951.

In the Marysville municipal court, one part-time judge shall be elected in 1963.

In the Mason municipal court, one part-time judge shall be elected in 1965.

In the Massillon municipal court, one full-time judge shall be elected in 1953, and one full-time judge shall be elected in 1971.

In the Maumee municipal court, one full-time judge shall be elected in 1963.

In the Medina municipal court, one full-time judge shall be elected in 1957.

In the Mentor municipal court, one full-time judge shall be elected in 1971.

In the Miami county municipal court, one full-time judge shall be elected in 1975, and one full-time judge shall be elected in 1979.

In the Miamisburg municipal court, one part-time judge shall be elected in 1951.

In the Middletown municipal court, one full-time judge shall be elected in 1953.

In the Morrow county municipal court, one full-time judge shall be elected in 2005. Beginning January 1, 2003, the part-time judge of the Morrow county county court that existed prior to that date shall serve as the full-time judge of the Morrow county municipal court until December 31, 2005.

In the Mount Vernon municipal court, one full-time judge shall be elected in 1951.

In the Napoleon municipal court, one full-time judge shall be elected in 2005.

In the New Philadelphia municipal court, one full-time judge shall be elected in 1975.

In the Newton Falls municipal court, one full-time judge shall be elected in 1963.

In the Niles municipal court, one full-time judge shall be elected in 1951.

In the Norwalk municipal court, one full-time judge shall be elected in 1975.

In the Oakwood municipal court, one part-time judge shall be elected in 1953.

In the Oberlin municipal court, one full-time judge shall be elected in 1989.

In the Oregon municipal court, one full-time judge shall be elected in 1963.

In the Ottawa county municipal court, one full-time judge shall be elected in 1995, and the full-time judge of the Port Clinton municipal court who is elected in 1989 shall serve as the judge of the Ottawa county municipal court from February 4, 1994, until the end of that judge's term.

In the Painesville municipal court, one full-time judge shall be elected in



1951.

In the Parma municipal court, one full-time judge shall be elected in 1951, one full-time judge shall be elected in 1967, and one full-time judge shall be elected in 1971.

In the Perrysburg municipal court, one full-time judge shall be elected in 1977.

In the Portage county municipal court, two full-time judges shall be elected in 1979, and one full-time judge shall be elected in 1971.

In the Port Clinton municipal court, one full-time judge shall be elected in 1953. The full-time judge of the Port Clinton municipal court who is elected in 1989 shall serve as the judge of the Ottawa county municipal court from February 4, 1994, until the end of that judge's term.

In the Portsmouth municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1985.

In the Rocky River municipal court, one full-time judge shall be elected in 1957, and one full-time judge shall be elected in 1971.

In the Sandusky municipal court, one full-time judge shall be elected in 1953.

In the Shaker Heights municipal court, one full-time judge shall be elected in 1957.

In the Shelby municipal court, one part-time judge shall be elected in 1957.

In the Sidney municipal court, one full-time judge shall be elected in 1995.

In the South Euclid municipal court, one full-time judge shall be elected in 1999. The part-time judge elected in 1993, whose term commenced on January 1, 1994, shall serve until December 31, 1999, and the office of that judge is abolished on January 1, 2000.

In the Springfield municipal court, two full-time judges shall be elected in 1985, and one full-time judge shall be elected in 1983, all of whom shall serve as the judges of the Springfield municipal court through December 31, 1987, and as the judges of the Clark county municipal court from January 1, 1988, until the end of their respective terms.

In the Steubenville municipal court, one full-time judge shall be elected in 1953.

In the Struthers municipal court, one part-time judge shall be elected in 1963.

In the Sylvania municipal court, one full-time judge shall be elected in 1963.

In the Tiffin municipal court, one full-time judge shall be elected in 1953.

In the Toledo municipal court, two full-time judges shall be elected in 1971, four full-time judges shall be elected in 1975, and one full-time judge shall be elected in 1973.

In the Upper Sandusky municipal court, one part-time judge shall be elected in 1957.

In the Vandalia municipal court, one full-time judge shall be elected in 1959.

In the Van Wert municipal court, one full-time judge shall be elected in 1957.

In the Vermilion municipal court, one part-time judge shall be elected in 1965.

In the Wadsworth municipal court, one full-time judge shall be elected in 1981.

In the Warren municipal court, one full-time judge shall be elected in 1951, and one full-time judge shall be elected in 1971.

In the Washington Court House municipal court, one full-time judge shall be elected in 1999. The part-time judge elected in 1993, whose term commenced on January 1, 1994, shall serve until December 31, 1999, and the office of that judge is abolished on January 1, 2000.

In the Wayne county municipal court, one full-time judge shall be elected in 1975, and one full-time judge shall be elected in 1979.

In the Willoughby municipal court, one full-time judge shall be elected in 1951.

In the Wilmington municipal court, one full-time judge shall be elected in 1991, who shall serve as the judge of the Wilmington municipal court through June 30, 1992, and as the judge of the Clinton county municipal court from July 1, 1992, until the end of that judge's term on December 31, 1997.

In the Xenia municipal court, one full-time judge shall be elected in 1977.

In the Youngstown municipal court, one full-time judge shall be elected in 1951, and two full-time judges shall be elected in 1953.

In the Zanesville municipal court, one full-time judge shall be elected in 1953."

In line 922, after "sections" insert "1901.08,"

After line 925, insert:

**"Section 3.** The part-time judge of the Berea Municipal Court who was elected in 1999 shall remain the part-time judge of the Berea Municipal Court

until the end of the judge's term. The full-time judge of the Berea Municipal Court who is elected in 2005 shall be the successor to the part-time judge of that court who was elected in 1999."

In line 1 of the title, after "sections" insert "1901.08,"

In line 30 of the title, delete "and"

In line 31 of the title, after "Pleas" insert ", and to change the status of the judge of the Berea Municipal Court from part-time to full-time"

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 90, nays 3, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Callender	Calvert	Carano
Carmichael	Cates	Chandler	Cirelli
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Domenick	Driehaus	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Grendell	Hartnett	Harwood
Hollister	Hoops	Husted	Jerse
Kearns	Key	Kilbane	Koziura
Latta	Martin	Mason	McGregor
Miller	Niehaus	Oelslager	Olman
Otterman	Patton S.	Patton T.	Perry
Peterson	Price	Raga	Raussen
Redfern	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Skindell	Slaby	Smith G.
Smith S.	Stewart J.	Strahorn	Sykes
Taylor	Ujvagi	Wagner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wilson	Wolpert	Yates
Young			Householder-90.

Representatives Buehrer, Hagan, and Trakas voted in the negative-3.

The motion was agreed to and the bill so amended.

The question recurring, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 93, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Chandler
Cirelli	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Domenick	Driehaus	Evans D.
Faber	Fessler	Flowers	Gibbs

Gilb	Grendell	Hagan	Harwood
Hollister	Hoops	Husted	Jerse
Kearns	Key	Kilbane	Koziura
Latta	Martin	Mason	McGregor
Miller	Niehaus	Oelslager	Olman
Otterman	Patton S.	Patton T.	Perry
Peterson	Price	Raga	Rausen
Redfern	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Skindell	Slaby	Smith G.
Smith S.	Stewart D.	Stewart J.	Strahorn
Sykes	Taylor	Trakas	Ujvagi
Wagner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wilson
Wolpert	Woodard	Yates	Young
			Householder-93.

The bill passed.

Representative Seitz moved to amend the title as follows:

Add the names: "Buehrer, DeGeeter, Hollister, Niehaus, T. Patton, Reidelbach, Schmidt, Schneider, Slaby."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**Sub. S. B. No. 80**-Senators Stivers, Hottinger, Goodman, Wachtmann, Amstutz, Randy Gardner, Austria, Nein, Schuring, Armbruster, Coughlin, Carey, Harris, Mumper, Schuler.

To amend sections 1775.14, 2117.06, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and 4513.263; to enact sections 2305.131, 2307.711, 2315.19, 2315.20, and 2323.44; and to repeal sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised Code to make changes related to the award of certain damages, collateral benefits evidence, and contributory fault in tort actions; to establish a statute of repose for certain product liability claims and claims based on unsafe conditions of real property improvements and to make other changes related to product liability claims; to provide that the product liability statutes are intended to abrogate common law product liability causes of action; to enact a conflicts of law provision for statutes of limitation in civil actions; to modify the provisions on frivolous conduct in filing civil actions; and to make other changes related to civil actions, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Seitz moved to amend as follows:

In line 24, after "sections" insert "1533.18, 1701.76, 1701.82,"

In line 25, after "2305.10" insert ", 2305.113, 2305.234"

In line 27, after "2505.02" insert ", 3719.81"; delete "and"; after "4513.263" insert ", 4713.02, 4715.42, 4723.01, 4723.03, 4723.28, 4723.43, 4723.44, 4723.48, 4723.482, 4729.01, and 4731.22"

In line 28, after "sections" insert "901.52, 1519.07,"; after "2305.131" insert ", 2305.36"; after "2307.711" insert ", 2307.97, 2315.18"

Between lines 29 and 30, insert:

"Sec. 901.52. (A) As used in this section, "tort action" has the same meaning as in section 2305.35 of the Revised Code.

(B) In a tort action, in the absence of willful or wanton misconduct or intentionally tortious conduct, no owner, lessee, renter, or operator of premises that are open to the public for direct access to growing agricultural produce shall be imputed to do either of the following:

(1) Extend any assurance to a person that the premises are safe from naturally occurring hazards merely by the act of giving permission to the person to enter the premises or by receiving consideration for the produce picked by the person:

(2) Assume responsibility or liability for injury, death, or loss to person or property allegedly resulting from the natural condition of the terrain of the premises or from the condition of the terrain resulting from cultivation of soil.

Sec. 1519.07. (A) As used in this section:

(1) "Intentional tort" means an injury to person or property that the tortfeasor intentionally caused, to which the tortfeasor intentionally contributed, or that the tortfeasor knew or believed was substantially certain to result from the tortfeasor's conduct.

(2) "Premises" means a parcel of land together with any waters, buildings, or structures on it that is privately owned and that is directly adjacent to a recreational trail.

(3) "Recreational trail" means a public trail that is used for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel and that interconnects state parks, forests, wildlife areas, nature preserves, scenic rivers, or other places of scenic or historic interest.

(4) "User of a recreational trail" means a person who, in the course of using a recreational trail, enters on premises without first obtaining express permission to be there from the owner, lessee, or occupant of the premises.

(B)(1) An owner, lessee, or occupant of premises does not owe any duty to a user of a recreational trail to keep the premises safe for entry or use by a user of a recreational trail.

(2) An owner, lessee, or occupant of premises does not assume, has no responsibility for, does not incur liability for, and is not liable for any injury to person or property caused by any act of a user of a recreational trail.

(C) This section does not apply to intentional torts.

**Sec. 1533.18.** As used in sections 1533.18 and 1533.181 of the Revised Code:

(A) "Premises" means all privately-owned lands, ways, and waters, and any buildings and structures thereon, and all privately owned and state-owned lands, ways, and waters leased to a private person, firm, or organization, including any buildings and structures thereon.

(B) "Recreational user" means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, swim, operate a snowmobile or all-purpose vehicle, or engage in other recreational pursuits.

(C) "All-purpose vehicle" has the same meaning as in section 4519.01 of the Revised Code.

**Sec. 1701.76.** (A)(1) Provided the provisions of Chapter 1704. of the Revised Code do not prevent the transaction from being effected, a lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets, with or without the good will, of a corporation, if not made in the usual and regular course of its business, may be made upon ~~such~~the terms and conditions and for ~~such~~the consideration, ~~which that~~ may consist, in whole or in part, of money or other property of any description, including shares or other securities or promissory obligations of any other corporation, domestic or foreign, ~~as that~~ may be authorized as follows:

(a) By the directors, either before or after authorization by the shareholders as required in this section; and

(b) At a meeting of the shareholders held for ~~such that~~ purpose, by the affirmative vote of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on ~~such the~~ proposal, or, if the articles so provide or permit, by the affirmative vote of a greater or lesser proportion, but not less than a majority, of ~~such the~~ voting power, and by ~~such the~~ affirmative vote of the holders of shares of any particular class ~~as that~~ is required by the articles.

(2) At the shareholder meeting described in division (A)(1)(b) of this section or at any subsequent shareholder meeting, shareholders, by the same vote that is required to authorize the lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets, with or without the good will, of the corporation, may grant authority to the directors to establish or amend any of the terms and conditions of the transaction, except that the shareholders shall

not authorize the directors to do any of the following:

(a) Alter or change the amount or kind of shares, securities, money, property, or rights to be received in exchange for the assets;

(b) Alter or change to any material extent the amount or kind of liabilities to be assumed in exchange for the assets;

(c) Alter or change any other terms and conditions of the transaction if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the shareholders or the corporation.

(3) Notice of the meeting of the shareholders described in division (A)(1)(b) of this section shall be given to all shareholders whether or not entitled to vote at the meeting and shall be accompanied by a copy or summary of the terms of the transaction.

(B) The corporation by its directors may abandon ~~such~~the transaction under this section, subject to the contract rights of other persons, if the power of abandonment is conferred upon the directors either by the terms of the transaction or by the same vote of shareholders and at the same meeting of shareholders as that referred to in division (A)(1)(b) of this section or at any subsequent meeting.

(C) Dissenting holders of shares of any class, whether or not entitled to vote, shall be entitled to relief under section 1701.85 of the Revised Code.

(D) An action to set aside a conveyance by a corporation, on the ground that any section of the Revised Code applicable to the lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets of ~~such~~that corporation has not been complied with, shall be brought within ninety days after ~~such~~that transaction, or ~~such~~the action shall be forever barred.

(E) If a resolution of dissolution is adopted pursuant to section 1701.86 of the Revised Code, the directors may dispose of all, or substantially all, of the corporation's assets without the necessity of a shareholders' authorization under this section.

(F) The terms and conditions of any transaction under this section shall be subject to the limitations specified in section 2307.97 of the Revised Code.

**Sec. 1701.82.** (A) When a merger or consolidation becomes effective, all of the following apply:

(1) The separate existence of each constituent entity other than the surviving entity in a merger shall cease, except that whenever a conveyance, assignment, transfer, deed, or other instrument or act is necessary to vest property or rights in the surviving or new entity, the officers, general partners, or other authorized representatives of the respective constituent entities shall execute, acknowledge, and deliver ~~such~~those instruments and do ~~such~~those acts. For these purposes, the existence of the constituent entities and the authority of their respective officers, directors, general partners, or other authorized

representatives is continued notwithstanding the merger or consolidation.

(2) In the case of a consolidation, the new entity exists when the consolidation becomes effective and, if it is a domestic corporation, the articles contained in or provided for in the agreement of consolidation shall be its original articles. In the case of a merger in which the surviving entity is a domestic corporation, the articles of the domestic surviving corporation in effect immediately prior to the time the merger becomes effective shall continue as its articles after the merger except as otherwise provided in the agreement of merger.

(3) The surviving or new entity possesses all assets and property of every description, and every interest in the assets and property, wherever located, and the rights, privileges, immunities, powers, franchises, and authority, of a public as well as of a private nature, of each constituent entity, and, subject to the limitations specified in section 2307.97 of the Revised Code, all obligations belonging to or due to each constituent entity, all of which are vested in the surviving or new entity without further act or deed. Title to any real estate or any interest in the real estate vested in any constituent entity shall not revert or in any way be impaired by reason of such merger or consolidation.

(4) ~~The~~ Subject to the limitations specified in section 2307.97 of the Revised Code, the surviving or new entity is liable for all the obligations of each constituent entity, including liability to dissenting shareholders. Any claim existing or any action or proceeding pending by or against any constituent entity may be prosecuted to judgment, with right of appeal, as if the merger or consolidation had not taken place, or the surviving or new entity may be substituted in its place.

(5) ~~All~~ Subject to the limitations specified in section 2307.97 of the Revised Code, all the rights of creditors of each constituent entity are preserved unimpaired, and all liens upon the property of any constituent entity are preserved unimpaired, on only the property affected by ~~such~~ those liens immediately prior to the effective date of the merger or consolidation. If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, then the former general partner shall have no liability for any obligation incurred after the merger or consolidation except to the extent that a former creditor of the constituent partnership in which the former general partner was a partner extends credit to the surviving or new entity reasonably believing that the former general partner continued as a general partner of the surviving or new entity.

(B) If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, the provisions of division (B) of section 1782.434 of the Revised Code shall apply.

(C) In the case of a merger of a domestic constituent corporation into a foreign surviving corporation, limited liability company, or limited partnership that is not licensed or registered to transact business in this state or in the case of



a consolidation of a domestic constituent corporation into a new foreign corporation, limited liability company, or limited partnership, if the surviving or new entity intends to transact business in this state and the certificate of merger or consolidation is accompanied by the information described in division (B)(4) of section 1701.81 of the Revised Code, then, on the effective date of the merger or consolidation, the surviving or new entity shall be considered to have complied with the requirements for procuring a license or for registering to transact business in this state as a foreign corporation, limited liability company, or limited partnership, as the case may be. In such a case, a copy of the certificate of merger or consolidation certified by the secretary of state constitutes the license certificate prescribed by the laws of this state for a foreign corporation transacting business in this state or the application for registration prescribed for a foreign limited partnership or limited liability company.

(D) Any action to set aside any merger or consolidation on the ground that any section of the Revised Code applicable to the merger or consolidation has not been complied with shall be brought within ninety days after the effective date of ~~such~~that merger or consolidation or be forever barred.

(E) As used in this section, "corporation" or "entity" applies to both domestic and foreign corporations and entities where the context so permits. In the case of a foreign constituent entity or a foreign new entity, this section is subject to the laws of the state under the laws of which the entity exists or in which it has property."

In line 420, after the underlined period insert "The court of common pleas shall not have jurisdiction in any tort action to which the limits apply to enter judgment on an award of compensatory damages for noneconomic loss in excess of the limits set forth in section 2315.18 of the Revised Code."

Between lines 602 and 603, insert:

"**Sec. 2305.113.** (A) Except as otherwise provided in this section, an action upon a medical, dental, optometric, or chiropractic claim shall be commenced within one year after the cause of action accrued.

(B)(1) If prior to the expiration of the one-year period specified in division (A) of this section, a claimant who allegedly possesses a medical, dental, optometric, or chiropractic claim gives to the person who is the subject of that claim written notice that the claimant is considering bringing an action upon that claim, that action may be commenced against the person notified at any time within one hundred eighty days after the notice is so given.

(2) An insurance company shall not consider the existence or nonexistence of a written notice described in division (B)(1) of this section in setting the liability insurance premium rates that the company may charge the company's insured person who is notified by that written notice.

(C) Except as to persons within the age of minority or of unsound mind as provided by section 2305.16 of the Revised Code, and except as provided in

division (D) of this section, both of the following apply:

(1) No action upon a medical, dental, optometric, or chiropractic claim shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim.

(2) If an action upon a medical, dental, optometric, or chiropractic claim is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim, then, any action upon that claim is barred.

(D)(1) If a person making a medical claim, dental claim, optometric claim, or chiropractic claim, in the exercise of reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within three years after the occurrence of the act or omission, but, in the exercise of reasonable care and diligence, discovers the injury resulting from that act or omission before the expiration of the four-year period specified in division (C)(1) of this section, the person may commence an action upon the claim not later than one year after the person discovers the injury resulting from that act or omission.

(2) If the alleged basis of a medical claim, dental claim, optometric claim, or chiropractic claim is the occurrence of an act or omission that involves a foreign object that is left in the body of the person making the claim, the person may commence an action upon the claim not later than one year after the person discovered the foreign object or not later than one year after the person, with reasonable care and diligence, should have discovered the foreign object.

(3) A person who commences an action upon a medical claim, dental claim, optometric claim, or chiropractic claim under the circumstances described in division (D)(1) or (2) of this section has the affirmative burden of proving, by clear and convincing evidence, that the person, with reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within the three-year period described in division (D)(1) of this section or within the one-year period described in division (D)(2) of this section, whichever is applicable.

(E) As used in this section:

(1) "Hospital" includes any person, corporation, association, board, or authority that is responsible for the operation of any hospital licensed or registered in the state, including, but not limited to, those that are owned or operated by the state, political subdivisions, any person, any corporation, or any combination of the state, political subdivisions, persons, and corporations. "Hospital" also includes any person, corporation, association, board, entity, or authority that is responsible for the operation of any clinic that employs a full-time staff of physicians practicing in more than one recognized medical specialty and rendering advice, diagnosis, care, and treatment to individuals. "Hospital" does not include any hospital operated by the government of the

United States or any of its branches.

(2) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board or a person who otherwise is authorized to practice medicine and surgery or osteopathic medicine and surgery in this state.

(3) "Medical claim" means any claim that is asserted in any civil action against a physician, podiatrist, hospital, home, or residential facility, against any employee or agent of a physician, podiatrist, hospital, home, or residential facility, or against a licensed practical nurse, registered nurse, advanced practice nurse, physical therapist, physician assistant, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, and that arises out of the medical diagnosis, care, or treatment of any person. "Medical claim" includes the following:

(a) Derivative claims for relief that arise from the medical diagnosis, care, or treatment of a person;

(b) Claims that arise out of the medical diagnosis, care, or treatment of any person and to which either of the following applies:

(i) The claim results from acts or omissions in providing medical care.

(ii) The claim results from the hiring, training, supervision, retention, or termination of caregivers providing medical diagnosis, care, or treatment.

(c) Claims that arise out of the medical diagnosis, care, or treatment of any person and that are brought under section 3721.17 of the Revised Code.

(4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board.

(5) "Dentist" means any person who is licensed to practice dentistry by the state dental board.

(6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person.

(7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following:

(a) Loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, or any other intangible loss that was sustained by the parent, guardian,

custodian, or spouse;

(b) Expenditures of the parent, guardian, custodian, or spouse for medical, dental, optometric, or chiropractic care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations provided to the individual who was the subject of the medical diagnosis, care, or treatment, the dental diagnosis, care, or treatment, the dental operation, the optometric diagnosis, care, or treatment, or the chiropractic diagnosis, care, or treatment.

(8) "Registered nurse" means any person who is licensed to practice nursing as a registered nurse by the ~~state~~ board of nursing.

(9) "Chiropractic claim" means any claim that is asserted in any civil action against a chiropractor, or against any employee or agent of a chiropractor, and that arises out of the chiropractic diagnosis, care, or treatment of any person. "Chiropractic claim" includes derivative claims for relief that arise from the chiropractic diagnosis, care, or treatment of a person.

(10) "Chiropractor" means any person who is licensed to practice chiropractic by the state chiropractic ~~examining~~ board.

(11) "Optometric claim" means any claim that is asserted in any civil action against an optometrist, or against any employee or agent of an optometrist, and that arises out of the optometric diagnosis, care, or treatment of any person. "Optometric claim" includes derivative claims for relief that arise from the optometric diagnosis, care, or treatment of a person.

(12) "Optometrist" means any person licensed to practice optometry by the state board of optometry.

(13) "Physical therapist" means any person who is licensed to practice physical therapy under Chapter 4755. of the Revised Code.

(14) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(15) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code.

(16) "Advanced practice nurse" means any certified nurse practitioner, clinical nurse specialist, ~~or~~ certified registered nurse anesthetist, or a certified nurse-midwife ~~certified~~ who holds a certificate of authority issued by the board of nursing under ~~section 4723.41~~ Chapter 4723. of the Revised Code.

(17) "Licensed practical nurse" means any person who is licensed to practice nursing as a licensed practical nurse by the ~~state~~ board of nursing pursuant to Chapter 4723. of the Revised Code.

(18) "Physician assistant" means any person who holds a valid certificate of registration or temporary certificate of registration issued pursuant to Chapter 4730. of the Revised Code.

(19) "Emergency medical technician-basic," "emergency medical technician-intermediate," and "emergency medical technician-paramedic" means any person who is certified under Chapter 4765. of the Revised Code as an emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, whichever is applicable."

Between lines 683 and 684, insert:

"**Sec. 2305.234.** (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to

practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;

(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.

(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(7) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111., disability medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(8) "Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.

(9) "Operation" means any procedure that involves cutting or otherwise

infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

(12) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(13) "Deep sedation" means a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, a patient's ability to independently maintain ventilatory function may be impaired, a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and cardiovascular function is usually maintained.

(14) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation, the ability to independently maintain ventilatory function is often impaired, a patient often requires assistance in maintaining a patent airway, positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function, and cardiovascular function may be impaired.

(B)(1) Subject to divisions (F) and (G)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this

section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section, including notifying the person that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot hold the health care professional liable for damages in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, unless the action or omission of the health care professional constitutes willful or wanton misconduct;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section. A written waiver under division (B)(2)(c) of this section shall state clearly and in conspicuous type that the person or other individual who signs the waiver is signing it with full knowledge that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot bring a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, against the health care professional unless the action or omission of the health care professional constitutes willful or wanton misconduct.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (F) and (G)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (F) and (G)(3) of this section, a nonprofit health care referral organization is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the nonprofit health care referral organization in referring indigent and uninsured persons to, or arranging for the provision of, medical, dental, or other



health-related diagnosis, care, or treatment by a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section, unless the action or omission constitutes willful or wanton misconduct.

(E) Subject to divisions (F) and (G)(3) of this section and to the extent that the registration requirements of section 3701.071 of the Revised Code apply, a health care facility or location associated with a health care professional described in division (B)(1) of this section, a health care worker described in division (C) of this section, or a nonprofit health care referral organization described in division (D) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker or nonprofit health care referral organization relative to the medical, dental, or other health-related diagnosis, care, or treatment provided to an indigent and uninsured person on behalf of or at the health care facility or location, unless the action or omission constitutes willful or wanton misconduct.

(F)(1) Except as provided in division (F)(2) of this section, the immunities provided by divisions (B), (C), (D), and (E) of this section are not available to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location if, at the time of an alleged injury, death, or loss to person or property, the health care professionals or health care workers involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation;to which any one of the following applies:

(i) The operation requires the administration of deep sedation or general anesthesia.

(ii) The operation is a procedure that is not typically performed in an office.

(iii) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and competence, as applicable, of the health care professional.

(c) Delivery of a baby or any other purposeful termination of a human pregnancy.

(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life

of a person in a medical emergency.

(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral organization to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety."

Between lines 796 and 797, insert:

**"Sec. 2305.36. (A) As used in this section:**

(1) "Cumulative consumption" means, with respect to a health condition, any health condition, including, but not limited to, increased cholesterol, heart disease, or high blood pressure, that is caused by successive consumption of a qualified product.

(2) "Person engaged in the business" means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the regular course of the person's trade or business.

(3) "Manufacturer" and "supplier" have the same meanings as in section 2307.71 of the Revised Code.

(4) "Qualified product" means all of the following:

(a) Articles used for food or drink for a human being or other animal;

(b) Chewing gum;

(c) Articles used for components of any article listed in division (A)(4)(a) or (b) of this section.

(5) "Seller" means, with respect to a qualified product, a person lawfully

engaged in the business of marketing, distributing, advertising, or selling the product.

(6) "Trade association" means any association or business organization that is not operated for profit and in which two or more members of the trade association are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.

(B) Except as provided in division (D) of this section, no manufacturer, seller, or supplier of a qualified product and no trade association is liable for injury, death, or loss to person or property for damages, is subject to an action for declaratory judgment, injunctive relief, or declaratory relief, or is responsible for restitution, damages, or other relief arising out of, resulting from, or related to cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity.

(C) A party that prevails on a motion to dismiss an action under division (B) of this section may recover reasonable attorney's fees and costs that the party incurred in connection with the motion to dismiss.

(D) The immunity from liability provided in division (B) of this section does not apply to any of the following if it, alone or in combination with any of the following, was the predominate proximate cause of the claim of injury, death, or loss resulting from cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity:

(1) The misbranding of the qualified product involved;

(2) Any knowing and willful violation of state or federal law that applies to the qualified product involved;

(3) Any breach of express contract or breach of express warranty in connection with the purchase of the qualified product involved.

(E) Nothing in this section shall be construed as creating any new cause of action for a claim of injury, death, or loss resulting from a person's cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity."

In line 1126, after "manufacturer" insert ";

(5) The extent to which that design or formulation is more dangerous than a reasonably prudent consumer would expect when used in an intended or reasonably foreseeable manner"

In line 1157, strike through ", unless the manufacturer acted unreasonably in"

In line 1158, strike through "introducing the product into trade or commerce"

Delete lines 1227 through 1237

In line 1265, after "standards" insert ", whether or not designated as such by the government."

Between lines 1274 and 1275 insert:

**"Sec. 2307.97. (A) As used in this section:**

(1) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered.

(2) "Asbestos claim" means any claim, wherever or whenever made, for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos. "Asbestos claim" includes any of the following:

(a) A claim made by or on behalf of any person who has been exposed to asbestos, or any representative, spouse, parent, child, or other relative of that person, for injury, including mental or emotional injury, death, or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to asbestos;

(b) A claim for damage or loss to property that is caused by the installation, presence, or removal of asbestos.

(3) "Corporation" means a corporation for profit, including the following:

(a) A domestic corporation that is organized under the laws of this state;

(b) A foreign corporation that is organized under laws other than the laws of this state and that has had a certificate of authority to transact business in this state or has done business in this state.

(4) "Successor" means a corporation or a subsidiary of a corporation that assumes or incurs, or had assumed or incurred, successor asbestos-related liabilities or had successor asbestos-related liabilities imposed on it by court order.

(5)(a) "Successor asbestos-related liabilities" means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, if the liabilities are related in any way to asbestos claims and either of the following applies:

(i) The liabilities are assumed or incurred by a successor as a result of or in connection with an asset purchase, stock purchase, merger, consolidation, or agreement providing for an asset purchase, stock purchase, merger, or consolidation, including a plan of merger.

(ii) The liabilities were imposed by court order on a successor.

(b) "Successor asbestos-related liabilities" includes any liabilities

described in division (A)(5)(a)(i) of this section that, after the effective date of the asset purchase, stock purchase, merger, or consolidation, are paid, otherwise discharged, committed to be paid, or committed to be otherwise discharged by or on behalf of the successor, or by or on behalf of a transferor, in connection with any judgment, settlement, or other discharge of those liabilities in this state or another jurisdiction.

(6) "Transferor" means a corporation or its shareholders from which successor asbestos-related liabilities are or were assumed or incurred by a successor or were imposed by court order on a successor.

(B) The limitations set forth in division (C) of this section apply to a corporation that is either of the following:

(1) A successor that became a successor prior to January 1, 1972, if either of the following applies:

(a) In the case of a successor in a stock purchase or an asset purchase, the successor paid less than fifteen million dollars for the stock or assets of the transferor.

(b) In the case of a successor in a merger or consolidation, the fair market value of the total gross assets of the transferor, at the time of the merger or consolidation, excluding any insurance of the transferor, was less than fifty million dollars.

(2) Any successor to a prior successor if the prior successor met the requirements of division (B)(1)(a) or (b) of this section, whichever is applicable.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the cumulative successor asbestos-related liabilities of a corporation shall be limited to either of the following:

(a) In the case of a corporation that is a successor in a stock purchase or an asset purchase, the fair market value of the acquired stock or assets of the transferor, as determined on the effective date of the stock or asset purchase;

(b) In the case of a corporation that is a successor in a merger or consolidation, the fair market value of the total gross assets of the transferor, as determined on the effective date of the merger or consolidation.

(2)(a) If a transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior purchase of assets or stock involving a prior transferor, the fair market value of the assets or stock purchased from the prior transferor, determined as of the effective date of the prior purchase of the assets or stock, shall be substituted for the limitation set forth in division (C)(1)(a) of this section for the purpose of determining the limitation of the liability of a corporation.

(b) If a transferor had assumed or incurred successor asbestos-related liabilities in connection with a merger or consolidation involving a prior transferor, the fair market value of the total gross assets of the prior transferor.

determined as of the effective date of the prior merger or consolidation, shall be substituted for the limitation set forth in division (C)(1)(b) of this section for the purpose of determining the limitation of the liability of a corporation.

(3) A corporation described in division (C)(1) or (2) of this section shall have no responsibility for any successor asbestos-related liabilities in excess of the limitation of those liabilities as described in the applicable division.

(D)(1) A corporation may establish the fair market value of assets, stock, or total gross assets under division (C) of this section by means of any method that is reasonable under the circumstances, including by reference to their going-concern value, to the purchase price attributable to or paid for them in an arm's length transaction, or, in the absence of other readily available information from which fair market value can be determined, to their value recorded on a balance sheet. Assets and total gross assets shall include intangible assets. A showing by the successor of a reasonable determination of the fair market value of assets, stock, or total gross assets is prima-facie evidence of their fair market value.

(2) For purposes of establishing the fair market value of total gross assets under division (D)(1) of this section, the total gross assets include the aggregate coverage under any applicable liability insurance that was issued to the transferor the assets of which are being valued for purposes of the limitations set forth in division (C) of this section, if the insurance has been collected or is collectable to cover the successor asbestos-related liabilities involved. Those successor asbestos-related liabilities do not include any compensation for any liabilities arising from the exposure of workers to asbestos solely during the course of their employment by the transferor. Any settlement of a dispute concerning the insurance coverage described in this division that is entered into by a transferor or successor with the insurer of the transferor before the effective date of this section is determinative of the aggregate coverage of the liability insurance that is included in the determination of the transferor's total gross assets.

(3) After a successor has established a reasonable determination of the fair market value of assets, stock, or total gross assets under divisions (D)(1) and (2) of this section, a claimant that disputes that determination of the fair market value has the burden of establishing a different fair market value.

(4)(a) Subject to divisions (D)(4)(b), (c), and (d) of this section, the fair market value of assets, stock, or total gross assets at the time of the asset purchase, stock purchase, merger, or consolidation increases annually, at a rate equal to the sum of the following:

(i) The prime rate as listed in the first edition of the wall street journal published for each calendar year since the effective date of the asset purchase, stock purchase, merger, or consolidation, or, if the prime rate is not published in that edition of the wall street journal, the prime rate as reasonably determined on the first business day of the year;

(ii) One per cent.

(b) The rate that is determined pursuant to division (D)(4)(a) of this section shall not be compounded.

(c) The adjustment of the fair market value of assets, stock, or total gross assets shall continue in the manner described in division (D)(4)(a) of this section until the adjusted fair market value is first exceeded by the cumulative amounts of successor asbestos-related liabilities that are paid or committed to be paid by or on behalf of a successor or prior transferor, or by or on behalf of a transferor, after the time of the asset purchase, stock purchase, merger, or consolidation for which the fair market value of assets, stock, or total gross assets is determined.

(d) No adjustment of the fair market value of total gross assets as provided in division (D)(4)(a) of this section shall be applied to any liability insurance that is otherwise included in total gross assets as provided in division (D)(2) of this section.

(E)(1) The limitations set forth in division (C) of this section shall apply to the following:

(a) All asbestos claims, including asbestos claims that are pending on the effective date of this section, and all litigation involving asbestos claims, including litigation that is pending on the effective date of this section;

(b) Successors of a corporation to which this section applies.

(2) The limitations set forth in division (C) of this section do not apply to any of the following:

(a) Workers' compensation benefits that are paid by or on behalf of an employer to an employee pursuant to any provision of Chapter 4121., 4123., 4127., or 4131. of the Revised Code or comparable workers' compensation law of another jurisdiction;

(b) Any claim against a successor that does not constitute a claim for a successor asbestos-related liability;

(c) Any obligations arising under the "National Labor Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., as amended, or under any collective bargaining agreement;

(d) Any contractual rights to indemnification.

(F) The courts in this state shall apply, to the fullest extent permissible under the Constitution of the United States, this state's substantive law, including the provisions of this section, to the issue of successor asbestos-related liabilities."

Delete lines 1337 through 1407 and insert:

"Sec. 2315.18. (A) As used in this section and in section 2315.19 of the Revised Code:

(1) "Asbestos claim" has the same meaning as in section 2307.91 of the Revised Code.

(2) "Economic loss" means any of the following types of pecuniary harm:

(a) All wages, salaries, or other compensation lost as a result of an injury or loss to person or property that is a subject of a tort action;

(b) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations as a result of an injury or loss to person or property that is a subject of a tort action;

(c) Any other expenditures incurred as a result of an injury or loss to person or property that is a subject of a tort action, other than attorney's fees incurred in connection with that action.

(3) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.

(4) "Noneconomic loss" means nonpecuniary harm that results from an injury or loss to person or property that is a subject of a tort action, including, but not limited to, pain and suffering, loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, disfigurement, mental anguish, and any other intangible loss.

(5) "Occurrence" means all claims resulting from or arising out of any one person's bodily injury.

(6) "Product liability claim" has the same meaning as in section 2307.71 of the Revised Code.

(7) "Tort action" means a civil action for damages for injury or loss to person or property. "Tort action" includes a civil action upon a product liability claim or an asbestos claim. "Tort action" does not include a civil action upon a medical claim, dental claim, optometric claim, or chiropractic claim or a civil action for damages for a breach of contract or another agreement between persons.

(8) "Trier of fact" means the jury or, in a nonjury action, the court.

(B) In a tort action to recover damages for injury or loss to person or property, all of the following apply:

(1) There shall not be any limitation on the amount of compensatory damages that represents the economic loss of the person who is awarded the damages in the tort action.

(2) Except as otherwise provided in division (B)(3) of this section, the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action under this section to recover damages for injury or loss to person or property shall not exceed the greater of two hundred



fifty thousand dollars or an amount that is equal to three times the economic loss, as determined by the trier of fact, of the plaintiff in that tort action to a maximum of three hundred fifty thousand dollars for each plaintiff in that tort action or a maximum of five hundred thousand dollars for each occurrence that is the basis of that tort action.

(3) There shall not be any limitation on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action to recover damages for injury or loss to person or property if the noneconomic losses of the plaintiff are for either of the following:

(a) Permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system;

(b) Permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life-sustaining activities.

(C) In determining an award of compensatory damages for noneconomic loss in a tort action, the trier of fact shall not consider any of the following:

(1) Evidence of a defendant's alleged wrongdoing, misconduct, or guilt;

(2) Evidence of the defendant's wealth or financial resources;

(3) All other evidence that is offered for the purpose of punishing the defendant, rather than offered for a compensatory purpose.

(D) If a trial is conducted in a tort action to recover damages for injury or loss to person or property and a plaintiff prevails in that action, the court in a nonjury trial shall make findings of fact, and the jury in a jury trial shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following:

(1) The total compensatory damages recoverable by the plaintiff;

(2) The portion of the total compensatory damages that represents damages for economic loss;

(3) The portion of the total compensatory damages that represents damages for noneconomic loss.

(E)(1) After the trier of fact in a tort action to recover damages for injury or loss to person or property complies with division (D) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for economic loss in the amount determined pursuant to division (D)(2) of this section, and, subject to division (F)(1) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for noneconomic loss. Except as provided in division (B)(3) of this section, in no event shall a judgment for compensatory damages for noneconomic loss exceed the maximum recoverable amount that represents damages for noneconomic loss as provided in division (B)(2) of this section. Division (B) of this section shall be applied in a

jury trial only after the jury has made its factual findings and determination as to the damages.

(2) Prior to the trial in the tort action described in division (D) of this section, any party may seek summary judgment with respect to the nature of the alleged injury or loss to person or property, seeking a determination of the damages as described in division (B)(2) of this section.

(F)(1) A court of common pleas has no jurisdiction to enter judgment on an award of compensatory damages for noneconomic loss in excess of the limits set forth in this section.

(2) If the trier of fact is a jury, the court shall not instruct the jury with respect to the limit on compensatory damages for noneconomic loss described in division (B)(2) of this section, and neither counsel for any party nor a witness shall inform the jury or potential jurors of that limit.

(G) With respect to a tort action to which division (B)(2) of this section applies, any excess amount of compensatory damages for noneconomic loss that is greater than the applicable amount specified in division (B)(2) of this section shall not be reallocated to any other tortfeasor beyond the amount of compensatory damages that the tortfeasor would otherwise be responsible for under the laws of this state.

(H) This section does not apply to any of the following:

(1) Tort actions that are brought against the state in the court of claims, including, but not limited to, those actions in which a state university or college is a defendant and to which division (B)(3) of section 3345.40 of the Revised Code applies;

(2) Tort actions that are brought against political subdivisions of this state and that are commenced under or are subject to Chapter 2744. of the Revised Code. Division (C) of section 2744.05 of the Revised Code applies to recoverable damages in those actions.

(3) Wrongful death actions brought pursuant to Chapter 2125. of the Revised Code.

(I) If the provisions regarding the limits on compensatory damages for noneconomic loss set forth in division (B)(2) of this section have been determined to be unconstitutional, then division (C) of this section and section 2315.19 of the Revised Code shall govern the determination of an award of compensatory damages for noneconomic loss in a tort action.

**Sec. 2315.19.** (A) Upon a post-judgment motion, a trial court in a tort action shall review the evidence supporting an award of compensatory damages for noneconomic loss that the defendant has challenged as excessive. That review shall include, but is not limited to, the following factors:

(1) Whether the evidence presented or the arguments of the attorneys resulted in one or more of the following events in the determination of an award

of compensatory damages for noneconomic loss:

(a) It inflamed the passion or prejudice of the trier of fact.

(b) It resulted in the improper consideration of the wealth of the defendant.

(c) It resulted in the improper consideration of the misconduct of the defendant so as to punish the defendant improperly or in circumvention of the limitation on punitive or exemplary damages as provided in section 2315.21 of the Revised Code.

(2) Whether the verdict is in excess of verdicts involving comparable injuries to similarly situated plaintiffs;

(3) Whether there were any extraordinary circumstances in the record to account for an award of compensatory damages for noneconomic loss in excess of what was granted by courts to similarly situated plaintiffs, with consideration given to the type of injury, the severity of the injury, and the plaintiff's age at the time of the injury.

(B) A trial court upholding an award of compensatory damages for noneconomic loss that a party has challenged as inadequate or excessive shall set forth in writing its reasons for upholding the award.

(C) An appellate court shall use a de novo standard of review when considering an appeal of an award of compensatory damages for noneconomic loss on the grounds that the award is inadequate or excessive."

In line 1417, after the underlined period insert "However, evidence of the life insurance payment or disability payment may be introduced if the plaintiff's employer paid for the life insurance or disability policy, and the employer is a defendant in the tort action."

In line 1598, after "felony" insert an underlined comma

In line 1600, after "section" insert ", and that is the basis of the tort action"

In line 1690, delete "As used in this section:"

Delete lines 1691 through 1746 and insert:

"There is hereby created the Ohio subrogation rights commission consisting of six voting members and seven nonvoting members. To be eligible for appointment as a voting member, a person shall be a current member of the general assembly. The president of the senate and the speaker of the house of representatives shall jointly appoint six members. The chairman of the senate committee to which bills pertaining to insurance are referred shall be a member of the commission. The chairman of the house committee to which bills pertaining to insurance are referred shall be a member of the commission. The chairman and the ranking minority member of the senate committee to which bills pertaining to civil justice are referred shall each be a member of the

commission. The chairman and the ranking minority member of the house committee to which bills pertaining to civil justice are referred shall each be a member of the commission. Of the six members jointly appointed by the president of the senate and the speaker of the house of representative, one shall represent a health insuring company doing business in the state of Ohio, one shall represent a public employees union in Ohio, one shall represent the Ohio academy of trial lawyers, one shall represent a property and casualty insurance company doing business in Ohio, one shall represent the Ohio state bar association, and one shall represent a sickness and accident insurer doing business in Ohio, and all shall have expertise in insurance law, including subrogation rights. A member of the Ohio judicial conference who is an elected or appointed judge shall be a member of the commission.

(B) The commission shall do all of the following:

(1) Investigate the problems posed by, and the issues surrounding, the N. Buckeye Educ. Council Group Health Benefits Plan v. Lawson (2004), 103 Ohio St. 3d 188 decision regarding subrogation;

(2) Prepare a report of recommended legislative solutions to the court decision referred to in division (B)(1) of this section;

(3) Submit a report of its findings to the members of the general assembly not later than September 1, 2005.

(C) Any vacancy in the membership of the commission shall be filled in the same manner in which the original appointment was made.

(D) The chairpersons of the house and senate committees to which bills pertaining to insurance are referred shall jointly call the first meeting of the commission not later than May 1, 2005. The first meeting shall be organizational, and the members of the commission shall determine the chairperson from among commission members by a majority vote.

(E) The legislative service commission shall provide any technical, professional, and clerical employees that are necessary for the commission to perform its duties."

In line 1978, after "2305.10" insert ", 2305.131, 2315.18"

Between lines 1988 and 1989 insert:

**"Sec. 3719.81.** (A) A person may furnish another a sample of any drug of abuse, or of any drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, if all of the following apply:

(1) The sample is furnished by a manufacturer, manufacturer's representative, or wholesale dealer in pharmaceuticals to a licensed health professional authorized to prescribe drugs, or is furnished by such a professional to a patient for use as medication;

(2) The drug is in the original container in which it was placed by the

manufacturer, and the container is plainly marked as a sample;

(3) Prior to its being furnished, the drug sample has been stored under the proper conditions to prevent its deterioration or contamination;

(4) If the drug is of a type which deteriorates with time, the sample container is plainly marked with the date beyond which the drug sample is unsafe to use, and the date has not expired on the sample furnished. Compliance with the labeling requirements of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, shall be deemed compliance with this section.

(5) The drug is distributed, stored, or discarded in such a way that the drug sample may not be acquired or used by any unauthorized person, or by any person, including a child, for whom it may present a health or safety hazard.

(B) Division (A) of this section does not do any of the following:

(1) Apply to or restrict the furnishing of any sample of a nonnarcotic substance if the substance may, under the "Federal Food, Drug, and Cosmetic Act" and under the laws of this state, otherwise be lawfully sold over the counter without a prescription;

(2) Authorize a licensed health professional authorized to prescribe drugs who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, ~~or advanced practice nurse~~ to furnish a sample of a drug that is not a drug the nurse is authorized to prescribe;

(3) Authorize an optometrist to furnish a sample of a drug that is not a drug the optometrist is authorized to prescribe.

(C) The state board of pharmacy shall, in accordance with Chapter 119. of the Revised Code, adopt rules as necessary to give effect to this section."

In line 2155, reinsert "(1) Subject to division (F)(2) of this section, the"; delete "The"

Reinsert lines 2180 through 2199

Between lines 2215 and 2216, insert:

"**Sec. 4713.02.** (A) There is hereby created the state board of cosmetology, consisting of all of the following members appointed by the governor, with the advice and consent of the senate:

(1) One person holding a current, valid cosmetologist, managing cosmetologist, or cosmetology instructor license at the time of appointment;

(2) Two persons holding current, valid managing cosmetologist licenses and actively engaged in managing beauty salons at the time of appointment;

(3) One person who holds a current, valid independent contractor license at the time of appointment or the owner or manager of a licensed salon in which at least one person holding a current, valid independent contractor license

practices a branch of cosmetology;

(4) One person who represents individuals who teach the theory and practice of a branch of cosmetology at a vocational school;

(5) One owner of a licensed school of cosmetology;

(6) One owner of at least five licensed salons;

(7) One person who is either ~~an advanced practice nurse approved under section 4723.55 of the Revised Code~~, a certified nurse practitioner or clinical nurse specialist holding a certificate of authority issued under ~~section 4723.41~~ Chapter 4723, of the Revised Code, or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(8) One person representing the general public.

(B) The superintendent of public instruction shall nominate three persons for the governor to choose from when making an appointment under division (A)(4) of this section.

(C) All members shall be at least twenty-five years of age, residents of the state, and citizens of the United States. No more than two members, at any time, shall be graduates of the same school of cosmetology.

Except for the initial members appointed under divisions (A)(3) and (4) of this section, terms of office are for five years. The term of the initial member appointed under division (A)(3) of this section shall be three years. The term of the initial member appointed under division (A)(4) of this section shall be four years. Terms shall commence on the first day of November and end on the thirty-first day of October. Each member shall hold office from the date of appointment until the end of the term for which appointed. In case of a vacancy occurring on the board, the governor shall, in the same manner prescribed for the regular appointment to the board, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Before entering upon the discharge of the duties of the office of member, each member shall take, and file with the secretary of state, the oath of office required by Section 7 of Article XV, Ohio Constitution.

The members of the board shall receive an amount fixed pursuant to Chapter 124. of the Revised Code per diem for every meeting of the board which they attend, together with their necessary expenses, and mileage for each mile necessarily traveled.

The members of the board shall annually elect, from among their number, a chairperson.

The board shall prescribe the duties of its officers and establish an office at Columbus, Ohio. The board shall keep all records and files at the office and have the records and files at all reasonable hours open to public inspection. The board also shall adopt a seal.

**Sec. 4715.42.** (A)(1) As used in this section, "indigent and uninsured person" and "operation" have the same meanings as in section 2305.234 of the Revised Code.

(2) For the purposes of this section, a person shall be considered retired from practice if the person's license has been surrendered or allowed to expire with the intention of ceasing to practice as a dentist or dental hygienist for remuneration.

(B) ~~The~~ Within thirty days after receiving an application for a volunteer's certificate that includes all of the items listed in divisions (C)(1), (2), and (3) of this section, the state dental board may ~~shall~~ issue, without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide dental services to indigent and uninsured persons.

(C) An application for a volunteer's certificate shall include all of the following:

(1) A copy of the applicant's degree from dental college or dental hygiene school.

(2) One of the following, as applicable:

(a) A copy of the applicant's most recent license to practice dentistry or dental hygiene issued by a jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.

(b) A copy of the applicant's most recent license equivalent to a license to practice dentistry or dental hygiene in one or more branches of the United States armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) The applicant has maintained for at least ten years prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.

(b) The applicant has practiced as a dentist or dental hygienist in good standing for at least ten years prior to retirement in one or more branches of the United States armed services.

~~(4) A notarized statement from the applicant, on a form prescribed by the board, that the applicant will not accept any form of remuneration for any dental services rendered while in possession of a volunteer's certificate.~~

(D) The holder of a volunteer's certificate may provide dental services only to indigent and uninsured persons. The holder shall not accept any form of remuneration for providing dental services while in possession of the certificate.

Except in a dental emergency, the holder shall not perform any operation. The board may revoke a volunteer's certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the holder's certificate or that there are grounds for action against the person under section 4715.30 of the Revised Code.

(E)(1) A volunteer's certificate shall be valid for a period of three years, and may be renewed upon the application of the holder, unless the certificate was previously revoked under division (D) of this section. The board shall maintain a register of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(2) To be eligible for renewal of a volunteer's certificate, the holder of the certificate shall certify to the board completion of sixty hours of continuing dental education that meets the requirements of section 4715.141 of the Revised Code and the rules adopted under that section, or completion of eighteen hours of continuing dental hygiene education that meets the requirements of section 4715.25 of the Revised Code and the rules adopted under that section, as the case may be. The board may not renew a certificate if the holder has not complied with the appropriate continuing education requirements. Any entity for which the holder provides dental services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education credits.

(3) The board shall issue to each person who qualifies under this section for a volunteer's certificate a wallet certificate and a wall certificate that state that the certificate holder is authorized to provide dental services pursuant to the laws of this state. The holder shall keep the wallet certificate on the holder's person while providing dental services and shall display the wall certificate prominently at the location where the holder primarily practices.

(4) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions in section 2305.234 of the Revised Code.

(F) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.

(G) Within ninety days after the effective date of this amendment, the state dental board shall make available through the board's website the application form for a volunteer's certificate under this section, a description of the application process, and a list of all items that are required by division (C) of this section to be submitted with the application.

**Sec. 4723.01.** As used in this chapter:

(A) "Registered nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a registered nurse.

(B) "Practice of nursing as a registered nurse" means providing to individuals and groups nursing care requiring specialized knowledge, judgment,



and skill derived from the principles of biological, physical, behavioral, social, and nursing sciences. Such nursing care includes:

(1) Identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen;

(2) Executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions;

(3) Assessing health status for the purpose of providing nursing care;

(4) Providing health counseling and health teaching;

(5) Administering medications, treatments, and executing regimens authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice;

(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.

(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities.

(D) "Assessing health status" means the collection of data through nursing assessment techniques, which may include interviews, observation, and physical evaluations for the purpose of providing nursing care.

(E) "Licensed practical nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a licensed practical nurse.

(F) "The practice of nursing as a licensed practical nurse" means providing to individuals and groups nursing care requiring the application of basic knowledge of the biological, physical, behavioral, social, and nursing sciences at the direction of a licensed physician, dentist, podiatrist, optometrist, chiropractor, or registered nurse. Such nursing care includes:

(1) Observation, patient teaching, and care in a diversity of health care settings;

(2) Contributions to the planning, implementation, and evaluation of nursing;

(3) Administration of medications and treatments authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, except that administration of intravenous therapy shall be performed only in accordance with section 4723.17 or 4723.171 of the Revised Code. Medications may be administered by a licensed practical nurse upon proof of completion of a course in medication administration approved by the board of nursing.

(4) Administration to an adult of intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the

course of the individual's professional practice, on the condition that the licensed practical nurse is authorized under section 4723.17 or 4723.171 of the Revised Code to perform intravenous therapy and performs intravenous therapy only in accordance with those sections.

(G) "Certified registered nurse anesthetist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified registered nurse anesthetist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(H) "Clinical nurse specialist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a clinical nurse specialist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(I) "Certified nurse-midwife" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse-midwife in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(J) "Certified nurse practitioner" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse practitioner in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(K) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(L) "Collaboration" or "collaborating" means the following:

(1) In the case of a clinical nurse specialist, except as provided in division (L)(3) of this section, or a certified nurse practitioner, that one or more podiatrists acting within the scope of practice of podiatry in accordance with section 4731.51 of the Revised Code and with whom the nurse has entered into a standard care arrangement or one or more physicians with whom the nurse has entered into a standard care arrangement are continuously available to communicate with the clinical nurse specialist or certified nurse practitioner either in person or by radio, telephone, or other form of telecommunication;

(2) In the case of a certified nurse-midwife, that one or more physicians with whom the certified nurse-midwife has entered into a standard care arrangement are continuously available to communicate with the certified nurse-midwife either in person or by radio, telephone, or other form of telecommunication;

(3) In the case of a clinical nurse specialist who practices the nursing specialty of mental health or psychiatric mental health without being authorized to prescribe drugs and therapeutic devices, that one or more physicians are continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication.

(M) "Supervision," as it pertains to a certified registered nurse anesthetist, means that the certified registered nurse anesthetist is under the direction of a podiatrist acting within the podiatrist's scope of practice in accordance with section 4731.51 of the Revised Code, a dentist acting within the dentist's scope of practice in accordance with Chapter 4715. of the Revised Code, or a physician, and, when administering anesthesia, the certified registered nurse anesthetist is in the immediate presence of the podiatrist, dentist, or physician.

(N) "Standard care arrangement;" ~~except as it pertains to an advanced practice nurse;~~ means a written, formal guide for planning and evaluating a patient's health care that is developed by one or more collaborating physicians or podiatrists and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and meets the requirements of section 4723.431 of the Revised Code.

(O) "Advanced practice nurse;" ~~until three years and eight months after May 17, 2000, means a registered nurse who is approved by the board of nursing under section 4723.55 of the Revised Code to practice as an advanced practice nurse~~certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.

(P) "Dialysis care" means the care and procedures that a dialysis technician is authorized to provide and perform, as specified in section 4723.72 of the Revised Code.

(Q) "Dialysis technician" means an individual who holds a current, valid certificate or temporary certificate issued under this chapter that authorizes the individual to practice as a dialysis technician in accordance with section 4723.72 of the Revised Code.

(R) "Certified community health worker" means an individual who holds a current, valid certificate as a community health worker issued by the board of nursing under section 4723.85 of the Revised Code.

**Sec. 4723.03.** (A) No person shall engage in the practice of nursing as a registered nurse, represent the person as being a registered nurse, or use the title "registered nurse," the initials "R.N.," or any other title implying that the person is a registered nurse, for a fee, salary, or other consideration, or as a volunteer, without holding a current, valid license as a registered nurse under this chapter.

(B) No person shall engage in the practice of nursing as a licensed practical nurse, represent the person as being a licensed practical nurse, or use the title "licensed practical nurse," the initials "L.P.N.," or any other title implying that the person is a licensed practical nurse, for a fee, salary, or other consideration, or as a volunteer, without holding a current, valid license as a practical nurse under this chapter.

(C) No person shall use the titles or initials "graduate nurse," "G.N.," "professional nurse," "P.N.," "graduate practical nurse," "G.P.N.," "practical

nurse," "P.N.," "trained nurse," "T.N.," or any other statement, title, or initials that would imply or represent to the public that the person is authorized to practice nursing in this state, except as follows:

- (1) A person licensed under this chapter to practice nursing as a registered nurse may use that title and the initials "R.N.";
- (2) A person licensed under this chapter to practice nursing as a licensed practical nurse may use that title and the initials "L.P.N.";
- (3) A person authorized under this chapter to practice nursing as a certified registered nurse anesthetist may use that title, the initials "C.R.N.A." or "N.A.," and any other title or initials approved by the board of nursing;
- (4) A person authorized under this chapter to practice nursing as a clinical nurse specialist may use that title, the initials "C.N.S.," and any other title or initials approved by the board;
- (5) A person authorized under this chapter to practice nursing as a certified nurse-midwife may use that title, the initials "C.N.M.," and any other title or initials approved by the board;
- (6) A person authorized under this chapter to practice nursing as a certified nurse practitioner may use that title, the initials "C.N.P.," and any other title or initials approved by the board;
- (7) A person authorized under this chapter to practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may use the title "advanced practice nurse" or the initials "A.P.N."

(D) No person shall employ a person not licensed as a registered nurse under this chapter to engage in the practice of nursing as a registered nurse. No person shall employ a person not licensed as a practical nurse under this chapter to engage in the practice of nursing as a licensed practical nurse.

(E) No person shall sell or fraudulently obtain or furnish any nursing diploma, license, certificate, renewal, or record, or aid or abet such acts.

**Sec. 4723.28.** (A) The board of nursing, by a vote of a quorum, may revoke or may refuse to grant a nursing license, certificate of authority, or dialysis technician certificate to a person found by the board to have committed fraud in passing an examination required to obtain the license, certificate of authority, or dialysis technician certificate or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license, certificate of authority, or dialysis technician certificate issued by the board.

(B) Subject to division (N) of this section, the board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis

technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

(1) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including nursing or practice as a dialysis technician, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(2) Engaging in the practice of nursing or engaging in practice as a dialysis technician, having failed to renew a nursing license or dialysis technician certificate issued under this chapter, or while a nursing license or dialysis technician certificate is under suspension;

(3) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;

(5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, violating any municipal, state, county, or federal drug law;

(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;

(7) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;

(8) Self-administering or otherwise taking into the body any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way not in accordance with a legal, valid prescription issued for that individual;

(9) Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs ability to practice;

(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of habitual or excessive use of drugs, alcohol, or other chemical substances that impair the ability to practice;

(11) Impairment of the ability to practice according to acceptable and

prevailing standards of safe nursing care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;

(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;

(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;

(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;

(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;

(24) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, ~~or advanced practice nurse~~, except as provided in division (M) of this section, either of the following:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.

(25) Failure to comply with the terms and conditions of participation in the chemical dependency monitoring program established under section 4723.35 of the Revised Code;

(26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;

(27) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;

(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.

(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;

(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;

(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:

(a) Sexual contact, as defined in section 2907.01 of the Revised Code;

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.

(33) Assisting suicide as defined in section 3795.01 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a

violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

(D) The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code, the board may appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to conduct any hearing the board is authorized to hold under Chapter 119. of the Revised Code.

In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant or license holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of a quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section.

(E) If a criminal action is brought against a registered nurse, licensed practical nurse, or dialysis technician for an act or crime described in divisions (B)(3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the action was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed the act, or if the registered nurse, licensed practical nurse, or dialysis technician fails to participate in the adjudication, the board may take action as though the registered nurse, licensed practical nurse, or dialysis technician had been convicted of the act.

If the board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the registered nurse, licensed practical nurse, or dialysis technician may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the original conviction, plea, or judicial finding was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (C)(2) of section 2953.32 of



the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case shall be deemed not to have occurred, sealing of the records of a conviction on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section.

The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) The board may investigate an individual's criminal background in performing its duties under this section.

(G) During the course of an investigation conducted under this section, the board may compel any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability to provide safe nursing care. Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

If the board finds that an individual is impaired, the board shall require the individual to submit to care, counseling, or treatment approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. The individual shall be afforded an opportunity to demonstrate to the board that the individual can begin or resume the individual's occupation in compliance with acceptable and prevailing standards of care under the provisions of the individual's authority to practice.

For purposes of this division, any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(H) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule of the board. Any person may report to the board any information the person may have that appears to show a violation of any provision of this chapter or rule of the board. In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of the report or testimony.

(I) All of the following apply under this chapter with respect to the confidentiality of information:

(1) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action, except that the board may disclose information to law enforcement officers and government entities investigating a registered nurse, licensed practical nurse, or dialysis technician or a person who may have engaged in the unauthorized practice of nursing. No law enforcement officer or government entity with knowledge of any information disclosed by the board pursuant to this division shall divulge the information to any other person or government entity except for the purpose of an adjudication by a court or licensing or registration board or officer to which the person to whom the information relates is a party.

(2) If an investigation requires a review of patient records, the investigation and proceeding shall be conducted in such a manner as to protect patient confidentiality.

(3) All adjudications and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(4) Any board activity that involves continued monitoring of an individual as part of or following any disciplinary action taken under this section shall be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the board with respect to the board's monitoring activities is confidential and not subject to discovery in any civil action.

(J) Any action taken by the board under this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the person may be reinstated to practice.

(K) When the board refuses to grant a license or certificate to an applicant, revokes a license or certificate, or refuses to reinstate a license or certificate, the board may specify that its action is permanent. An individual subject to permanent action taken by the board is forever ineligible to hold a license or certificate of the type that was refused or revoked and the board shall not accept from the individual an application for reinstatement of the license or certificate or for a new license or certificate.

(L) No unilateral surrender of a nursing license, certificate of authority, or dialysis technician certificate issued under this chapter shall be effective unless accepted by majority vote of the board. No application for a nursing license, certificate of authority, or dialysis technician certificate issued under this chapter may be withdrawn without a majority vote of the board. The board's jurisdiction to take disciplinary action under this section is not removed or limited when an individual has a license or certificate classified as inactive or fails to renew a license or certificate.

(M) Sanctions shall not be imposed under division (B)(24) of this section against any licensee who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such

a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(N)(1) Any person who enters a prelicensure nursing education program on or after June 1, 2003, and who subsequently applies under division (A) of section 4723.09 of the Revised Code for licensure to practice as a registered nurse or as a licensed practical nurse and any person who applies under division (B) of that section for license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse shall submit a request to the bureau of criminal identification and investigation for the bureau to conduct a criminal records check of the applicant and to send the results to the board, in accordance with section 4723.09 of the Revised Code.

The board shall refuse to grant a license to practice nursing as a registered nurse or as a licensed practical nurse under section 4723.09 of the Revised Code to a person who entered a prelicensure nursing education program on or after June 1, 2003, and applied under division (A) of section 4723.09 of the Revised Code for the license or a person who applied under division (B) of that section for the license, if the criminal records check performed in accordance with division (C) of that section indicates that the person has pleaded guilty to, been convicted of, or has had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country.

(2) Any person who enters a dialysis training program on or after June 1, 2003, and who subsequently applies for a certificate to practice as a dialysis technician shall submit a request to the bureau of criminal identification and investigation for the bureau to conduct a criminal records check of the applicant and to send the results to the board, in accordance with section 4723.75 of the Revised Code.

The board shall refuse to issue a certificate to practice as a dialysis technician under section 4723.75 of the Revised Code to a person who entered a dialysis training program on or after June 1, 2003, and whose criminal records check performed in accordance with division (C) of that section indicates that the person has pleaded guilty to, been convicted of, or has had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country.

**Sec. 4723.43.** A certified registered nurse anesthetist, clinical nurse

specialist, certified nurse-midwife, or certified nurse practitioner may provide to individuals and groups nursing care that requires knowledge and skill obtained from advanced formal education and clinical experience. In this capacity as an advanced practice nurse, a certified nurse-midwife is subject to division (A) of this section, a certified registered nurse anesthetist is subject to division (B) of this section, a certified nurse practitioner is subject to division (C) of this section, and a clinical nurse specialist is subject to division (D) of this section.

(A) A nurse authorized to practice as a certified nurse-midwife, in collaboration with one or more physicians, may provide the management of preventive services and those primary care services necessary to provide health care to women antepartally, intrapartally, postpartally, and gynecologically, consistent with the nurse's education and certification, and in accordance with rules adopted by the board.

No certified nurse-midwife may perform version, deliver breech or face presentation, use forceps, do any obstetric operation, or treat any other abnormal condition, except in emergencies. Division (A) of this section does not prohibit a certified nurse-midwife from performing episiotomies or normal vaginal deliveries, or repairing vaginal tears. A certified nurse-midwife who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

(B) A nurse authorized to practice as a certified registered nurse anesthetist, with the supervision and in the immediate presence of a physician, podiatrist, or dentist, may administer anesthesia and perform anesthesia induction, maintenance, and emergence, and may perform with supervision preanesthetic preparation and evaluation, postanesthesia care, and clinical support functions, consistent with the nurse's education and certification, and in accordance with rules adopted by the board. A certified registered nurse anesthetist is not required to obtain a certificate to prescribe in order to provide the anesthesia care described in this division.

The physician, podiatrist, or dentist supervising a certified registered nurse anesthetist must be actively engaged in practice in this state. When a certified registered nurse anesthetist is supervised by a podiatrist, the nurse's scope of practice is limited to the anesthesia procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform. A certified registered nurse anesthetist may not administer general anesthesia under the supervision of a podiatrist in a podiatrist's office. When a certified registered nurse anesthetist is supervised by a dentist, the nurse's scope of practice is limited to the anesthesia procedures that the dentist has the authority under Chapter 4715. of the Revised Code to perform.

(C) A nurse authorized to practice as a certified nurse practitioner, in collaboration with one or more physicians or podiatrists, may provide preventive and primary care services and evaluate and promote patient wellness within the nurse's nursing specialty, consistent with the nurse's education and certification,

and in accordance with rules adopted by the board. A certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

When a certified nurse practitioner is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

(D) A nurse authorized to practice as a clinical nurse specialist, in collaboration with one or more physicians or podiatrists, may provide and manage the care of individuals and groups with complex health problems and provide health care services that promote, improve, and manage health care within the nurse's nursing specialty, consistent with the nurse's education and in accordance with rules adopted by the board. A clinical nurse specialist who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

When a clinical nurse specialist is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

**Sec. 4723.44.** (A) No person shall do any of the following unless the person holds a current, valid certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issued by the board of nursing under this chapter:

(1) Engage in the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for a fee, salary, or other consideration, or as a volunteer;

(2) Represent the person as being a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(3) Use any title or initials implying that the person is a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(4) Represent the person as being an advanced practice nurse;

(5) Use any title or initials implying that the person is an advanced practice nurse.

(B) No person who is not certified by the national council on certification of nurse anesthetists of the American association of nurse anesthetists, the national council on recertification of nurse anesthetists of the American association of nurse anesthetists, or another national certifying organization

approved by the board under section 4723.46 of the Revised Code shall use the title "certified registered nurse anesthetist" or the initials "C.R.N.A.," or any other title or initial implying that the person has been certified by the council or organization.

(C) No certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall do any of the following:

(1) Engage, for a fee, salary, or other consideration, or as a volunteer, in the practice of a nursing specialty other than the specialty designated on the nurse's current, valid certificate of authority issued by the board under this chapter;

(2) Represent the person as being authorized to practice any nursing specialty other than the specialty designated on the current, valid certificate of authority;

(3) Use the title "certified registered nurse anesthetist" or the initials "N.A." or "C.R.N.A.," the title "clinical nurse specialist" or the initials "C.N.S.," the title "certified nurse-midwife" or the initials "C.N.M.," the title "certified nurse practitioner" or the initials "C.N.P.," the title "advanced practice nurse" or the initials "A.P.N." or any other title or initials implying that the nurse is authorized to practice any nursing specialty other than the specialty designated on the nurse's current, valid certificate of authority;

(4) Enter into a standard care arrangement with a physician or podiatrist whose practice is not the same as or similar to the nurse's nursing specialty;

(5) Prescribe drugs or therapeutic devices unless the nurse holds a current, valid certificate to prescribe issued under section 4723.48 of the Revised Code;

(6) Prescribe drugs or therapeutic devices under a certificate to prescribe in a manner that does not comply with section 4723.481 of the Revised Code;

(7) Prescribe any drug or device to perform or induce an abortion, or otherwise Perform or induce an abortion.

(D) No person shall knowingly employ a person to engage in the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner unless the person so employed holds a current, valid certificate of authority to engage in that nursing specialty issued by the board under this chapter.

(E) A certificate certified by the executive director of the board, under the official seal of the board, to the effect that it appears from the records that no certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner has been issued to any person specified therein, or that a certificate, if issued, has been revoked or suspended, shall be received as prima-facie

evidence of the record in any court or before any officer of the state.

**Sec. 4723.48.** (A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner seeking authority to prescribe drugs and therapeutic devices shall file with the board of nursing a written application for a certificate to prescribe. The board of nursing shall issue a certificate to prescribe to each applicant who meets the requirements specified in section 4723.482 or 4723.484 of the Revised Code.

Except as provided in division (B) of this section, the initial certificate to prescribe that the board issues to an applicant shall be issued as an externship certificate. Under an externship certificate, the nurse may obtain experience in prescribing drugs and therapeutic devices by participating in an externship that evaluates the nurse's competence, knowledge, and skill in pharmacokinetic principles and their clinical application to the specialty being practiced. During the externship, the nurse may prescribe drugs and therapeutic devices only when one or more physicians are providing supervision in accordance with rules adopted under section 4723.50 of the Revised Code.

After completing the externship, the holder of an externship certificate may apply for a new certificate to prescribe. On receipt of the new certificate, the nurse may prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

(B) In the case of ~~an advanced practice nurse~~ an applicant who on May 17, 2000, ~~is~~ was approved ~~under section 4723.56 of the Revised Code~~ to prescribe drugs and therapeutic devices under section 4723.56 of the Revised Code, as that section existed on that date, the initial certificate to prescribe that the board issues to the ~~nurse applicant~~ nurse applicant under this section shall not be an externship certificate. The ~~nurse applicant~~ nurse applicant shall be issued a certificate to prescribe that permits the ~~nurse recipient~~ nurse recipient to prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

**Sec. 4723.482.** (A) An applicant shall include with the application submitted under section 4723.48 of the Revised Code all of the following:

(1) Subject to section 4723.483 of the Revised Code, evidence of holding a current, valid certificate of authority issued ~~under section 4723.41 of the Revised Code~~ this chapter to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(2) Except for ~~an advanced practice nurse~~ a person who on ~~the effective date of this section is~~ May 17, 2000, was approved ~~under section 4723.56 of the Revised Code~~ to prescribe drugs and therapeutic devices under section 4723.56 of the Revised Code, as that section existed on that date, evidence of successfully completing the instruction in advanced pharmacology and related topics specified in division (B) of this section;

(3) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe;

(4) Any additional information the board requires pursuant to rules adopted under section 4723.50 of the Revised Code.

(B) All of the following apply to the instruction required under division (A)(2) of this section:

(1) The instruction must be obtained not longer than three years before the application for the certificate to prescribe is filed.

(2) The instruction must be obtained through a course of study consisting of planned classroom and clinical study that is approved by the board of nursing in accordance with standards established in rules adopted under section 4723.50 of the Revised Code.

(3) The content of the instruction must be specific to the applicant's nursing specialty and include all of the following:

(a) A minimum of thirty contact hours of training in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in the prevention of illness and maintenance of health;

(b) Training in the fiscal and ethical implications of prescribing drugs and therapeutic devices;

(c) Training in the state and federal laws that apply to the authority to prescribe;

(d) Any additional training required pursuant to rules adopted under section 4723.50 of the Revised Code.

**Sec. 4729.01.** As used in this chapter:

(A) "Pharmacy," except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted.

(B) "Practice of pharmacy" means providing pharmacist care requiring specialized knowledge, judgment, and skill derived from the principles of biological, chemical, behavioral, social, pharmaceutical, and clinical sciences. As used in this division, "pharmacist care" includes the following:

(1) Interpreting prescriptions;

(2) Compounding or dispensing drugs and dispensing drug therapy related devices;

(3) Counseling individuals with regard to their drug therapy, recommending drug therapy related devices, and assisting in the selection of drugs and appliances for treatment of common diseases and injuries and providing instruction in the proper use of the drugs and appliances;

(4) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the



drugs;

(5) Performing drug utilization reviews with licensed health professionals authorized to prescribe drugs when the pharmacist determines that an individual with a prescription has a drug regimen that warrants additional discussion with the prescriber;

(6) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;

(7) Acting pursuant to a consult agreement with a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, if an agreement has been established with the physician;

(8) Administering the adult immunizations specified in section 4729.41 of the Revised Code, if the pharmacist has met the requirements of that section.

(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:

(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;

(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;

(3) As an incident to research, teaching activities, or chemical analysis;

(4) In anticipation of prescription drug orders based on routine, regularly observed dispensing patterns.

(D) "Consult agreement" means an agreement to manage an individual's drug therapy that has been entered into by a pharmacist and a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(E) "Drug" means:

(1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;

(4) Any article intended for use as a component of any article specified in division ~~(C)~~(E)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.

(F) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.

(I) "Licensed health professional authorized to prescribe drugs" or "prescriber" means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

(1) A dentist licensed under Chapter 4715. of the Revised Code;

~~(2) Until January 17, 2000, an advanced practice nurse approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices;~~

~~(3)~~ A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;

~~(4)~~(3) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;

~~(5)~~(4) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

~~(6)~~(5) A veterinarian licensed under Chapter 4741. of the Revised Code.

(J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.

(K) "Wholesale sale" and "sale at wholesale" mean any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.

(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.

(M) "Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration. Mere advice or instructions regarding administration do not constitute control or establish responsibility.

(N) "Price information" means the price charged for a prescription for a particular drug product and, in an easily understandable manner, all of the following:

(1) The proprietary name of the drug product;

(2) The established (generic) name of the drug product;

(3) The strength of the drug product if the product contains a single active ingredient or if the drug product contains more than one active ingredient and a relevant strength can be associated with the product without indicating each active ingredient. The established name and quantity of each active ingredient are required if such a relevant strength cannot be so associated with a drug product containing more than one ingredient.

(4) The dosage form;

(5) The price charged for a specific quantity of the drug product. The stated price shall include all charges to the consumer, including, but not limited to, the cost of the drug product, professional fees, handling fees, if any, and a statement identifying professional services routinely furnished by the pharmacy. Any mailing fees and delivery fees may be stated separately without repetition. The information shall not be false or misleading.

(O) "Wholesale distributor of dangerous drugs" means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of such a person authorized by the person to engage in the sale of dangerous drugs at wholesale.

(P) "Manufacturer of dangerous drugs" means a person, other than a pharmacist, who manufactures dangerous drugs and who is engaged in the sale of those dangerous drugs within this state.

(Q) "Terminal distributor of dangerous drugs" means a person who is engaged in the sale of dangerous drugs at retail, or any person, other than a wholesale distributor or a pharmacist, who has possession, custody, or control of dangerous drugs for any purpose other than for that person's own use and consumption, and includes pharmacies, hospitals, nursing homes, and laboratories and all other persons who procure dangerous drugs for sale or other distribution by or under the supervision of a pharmacist or licensed health

professional authorized to prescribe drugs.

(R) "Promote to the public" means disseminating a representation to the public in any manner or by any means, other than by labeling, for the purpose of inducing, or that is likely to induce, directly or indirectly, the purchase of a dangerous drug at retail.

(S) "Person" includes any individual, partnership, association, limited liability company, or corporation, the state, any political subdivision of the state, and any district, department, or agency of the state or its political subdivisions.

(T) "Finished dosage form" has the same meaning as in section 3715.01 of the Revised Code.

(U) "Generically equivalent drug" has the same meaning as in section 3715.01 of the Revised Code.

(V) "Animal shelter" means a facility operated by a humane society or any society organized under Chapter 1717. of the Revised Code or a dog pound operated pursuant to Chapter 955. of the Revised Code.

(W) "Food" has the same meaning as in section 3715.01 of the Revised Code.

**Sec. 4731.22.** (A) The state medical board, by an affirmative vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding

of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an

admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of any abortion rule adopted by the public health council pursuant to section 3701.341 of the Revised Code;

(22) Any of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual

knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing



standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

~~(30) Failure of a collaborating physician to fulfill the responsibilities agreed to by the physician and an advanced practice nurse participating in a pilot program under section 4723.52 of the Revised Code;~~

~~(31) Failure to provide notice to, and receive acknowledgment of the~~

notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

~~(32)~~(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

~~(33)~~(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

~~(34)~~(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

~~(35)~~(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

~~(36)~~(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;

~~(37)~~(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;

~~(38)~~(37) Assisting suicide as defined in section 3795.01 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if

the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an

order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(4) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records

or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that an individual has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. A failure to issue the order within sixty days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this

section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate to practice.

(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant a certificate to an applicant, revokes

an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The

board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program."

In line 2216, after "sections" insert "1533.18, 1701.76, 1701.82,"

In line 2217, after "2305.10" insert ", 2305.113, 2305.234"

In line 2219, after "2505.02" insert ", 3719.81"; delete "and"

In line 2220, after "4513.263" insert ", 4713.02, 4715.42, 4723.01, 4723.03, 4723.28, 4723.43, 4723.44, 4723.48, 4723.482, 4729.01, and 4731.22"

In line 2226, delete "economic viability" and insert "economy"; after "Ohio" insert ", which is dependent on business providing essential jobs and creative innovation"

In line 2235, after "lawsuits" insert ", which increases the cost of doing business, threatens Ohio jobs, drives up costs to consumers, and may stifle innovation"

In line 2312, after "by" insert "the North American Industry Classification System and"

In line 2371, after "(6)(a)" insert "Noneconomic damages include such things as pain and suffering, emotional distress, and loss of consortium or companionship, which do not involve an economic loss and have, therefore, no precise economic value. Punitive damages are intended to punish a defendant for wrongful conduct. Pain and suffering awards are distinct from punitive damages. Pain and suffering awards are intended to compensate a person for the person's loss. They are not intended to punish a defendant for wrongful conduct.

(b) The judicial analysis of compensatory damages representing noneconomic loss, as specified in section 2315.19 of the Revised Code, are based on testimony asking members of the General Assembly to recognize these distinctions.

(c) With respect to noneconomic loss for either: (1) permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system; or (2) permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life-sustaining activities, the General Assembly recognizes that evidence that



juries may consider in awarding pain and suffering damages for these types of injuries is different from evidence courts may consider for punitive damages. For example, the amount of a plaintiff's pain and suffering is not relevant to a decision on wrongdoing, and the degree of the defendant's wrongdoing is not relevant to the amount of pain and suffering.

(d) While pain and suffering awards are inherently subjective, it is believed that this inflation of noneconomic damages is partially due to the improper consideration of evidence of wrongdoing in assessing pain and suffering damages.

(e) Inflated damage awards create an improper resolution of civil justice claims. The increased and improper cost of litigation and resulting rise in insurance premiums is passed on to the general public through higher prices for products and services.

(f) Therefore, with respect to the types of injuries articulated in division (A)(6)(c) of this section, the General Assembly finds that courts should provide juries with clear instructions about the purpose of pain and suffering damages. Courts should instruct juries that evidence of misconduct is not to be considered in deciding compensation for noneconomic damages for those types of injuries. Rather, it is to be considered solely for the purpose of deciding punitive damage awards. In cases in which punitive damages are requested, defendants should have the right to request bifurcation of a trial to ensure that evidence of misconduct is not inappropriately considered by the jury in its determination of liability and compensatory damages. As additional protection, trial and appellate courts should rigorously review pain and suffering awards to ensure that they properly serve compensatory purposes and are not excessive.

(7)(a)"

After line 2622, insert:

**Section 8.** Section 2323.44 of the Revised Code, as enacted by this act, shall take effect January 1, 2006.

**Section 9.** This act's amendment of division (A)(7) of section 4713.02 of the Revised Code does not affect the term of office of any person serving as a member of the State Board of Cosmetology on the effective date of this act.

**Section 10.** This act's amendment of division (B)(24) of section 4723.28 of the Revised Code does not remove the authority of the Board of Nursing to conduct investigations and take disciplinary actions regarding a person who engaged in the activities specified in that division while participating in one of the advanced practice nurse pilot programs operated pursuant to sections 4723.52 to 4723.60 of the Revised Code prior to January 17, 2004, the effective date of the repeal of those sections, as provided in Section 3 of Am. Sub. H.B. 241 of the 123rd General Assembly.

**Section 11.** This act's amendment of division (B)(30) of section 4731.22 of the Revised Code does not remove the State Medical Board's authority to

conduct investigations and take disciplinary actions regarding the failure of a collaborating physician to fulfill the responsibilities agreed to by the physician and a person participating in one of the advanced practice nurse pilot programs operated pursuant to sections 4723.52 to 4723.60 of the Revised Code prior to January 17, 2004, the effective date of the repeal of those sections, as provided in Section 3 of Am. Sub. H.B. 241 of the 123rd General Assembly.

**Section 12.** Section 4723.28 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 474 and Sub. S.B. 179 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

**Section 13.** Section 4731.22 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 474 and Sub. S.B. 179 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

**Section 14.** For any cause of action that arises before the effective date of this act, the provisions set forth in sections 1701.76, 1701.82, and 2307.97 of the Revised Code, as amended or enacted in Sections 1 and 2 of this act, are to be applied unless the court that has jurisdiction over the case finds both of the following:

(A) That a substantive right of a party to the case has been impaired;

(B) That the impairment is otherwise in violation of Section 28 of Article II, Ohio Constitution."

In line 1 of the title, after "sections" insert "1533.18, 1701.76, 1701.82,"

In line 2 of the title, after "2305.10" insert ", 2305.113, 2305.234"

In line 5 of the title, after "2505.02" insert ", 3719.81"; delete "and"

In line 6 of the title, after "4513.263" insert ", 4713.02, 4715.42, 4723.01, 4723.03, 4723.28, 4723.43, 4723.44, 4723.48, 4723.482, 4729.01, and 4731.22"; after "sections" insert "901.52, 1519.07,"; after "2305.131" insert ", 2305.36"; after "2307.711" insert ", 2307.97, 2315.18"

In line 22 of the title, delete "and"

In line 23 of the title insert "; to provide qualified immunity from civil damages for food manufacturers, sellers, and trade associations for claims resulting from a person's cumulative consumption, obesity, or weight gain or any health condition related to cumulative consumption, obesity, or weight gain; to prohibit imputing any assurances or assumption of liability regarding public

access to premises used for growing agricultural produce; to preclude assumption of liability regarding the use of recreational trails; to modify the civil immunity for health care professionals and health care workers; to specify the nurses who may refer to themselves as advanced practice nurses; to eliminate obsolete references to pilot programs for advanced practice nurses; to establish limitations on successor asbestos-related liabilities relating to corporations; and to require the State Dental Board to issue volunteer certificates to retired dental practitioners upon submission of a complete application"

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 68, nays 28, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Blasdel
Boccieri	Buehrer	Calvert	Carano
Carmichael	Cates	Clancy	Collier
Combs	Core	Daniels	DeWine
Distel	Domenick	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Grendell	Hagan	Hartnett
Hollister	Hoops	Hughes	Husted
Kearns	Kilbane	Latta	Martin
McGregor	Niehaus	Oelslager	Olman
Patton T.	Perry	Peterson	Raga
Rausen	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Slaby	Smith G.	Stewart J.
Taylor	Trakas	Wagner	Walcher
Webster	White	Widener	Widowfield
Wilson	Wolpert	Young	Householder-68.

Those who voted in the negative were: Representatives

Beatty	Book	Brinkman	Brown
Callender	Chandler	Cirelli	DeBose
DeGeeter	Driehaus	Harwood	Jerse
Key	Koziura	Mason	Miller
Otterman	Patton S.	Price	Redfern
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Woodard	Yates-28.

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

Representative Husted moved the previous question. This motion under House Rule 99 is supported by the following members:

JON A. HUSTED  
W. SCOTT OELSLAGER  
KEVIN DEWINE

TIMOTHY J. GRENDALL  
CHARLES R. BLASDEL

The question being, "Shall the debate now close?"

The yeas and nays were taken and resulted - yeas 60, nays 37, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Buehrer	Calvert
Carmichael	Cates	Clancy	Collier
Combs	Core	Daniels	DeWine
Evans C.	Evans D.	Faber	Fessler
Flowers	Gibbs	Gilb	Grendell
Hagan	Hollister	Hoops	Hughes
Husted	Kearns	Kilbane	Latta
Martin	McGregor	Niehaus	Oelslager
Olman	Patton T.	Peterson	Raga
Raussen	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Slaby	Smith G.	Stewart J.
Taylor	Trakas	Wagner	Walcher
Webster	White	Widener	Widowfield
Wilson	Wolpert	Young	Householder-60.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Callender
Carano	Chandler	Cirelli	DeBose
DeGeeter	Distel	Domenick	Driehaus
Hartnett	Harwood	Jerse	Key
Koziura	Mason	Miller	Otterman
Patton S.	Perry	Price	Redfern
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Willamowski	Woodard
			Yates-37.

The motion was agreed to and the debate closed.

The question being, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 65, nays 32, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Bocchieri	Buehrer
Calvert	Carano	Carmichael	Cates
Clancy	Collier	Combs	Core
Daniels	DeWine	Distel	Evans C.
Evans D.	Faber	Fessler	Flowers
Gibbs	Gilb	Grendell	Hagan
Hollister	Hoops	Hughes	Husted
Kearns	Kilbane	Latta	Martin
McGregor	Niehaus	Oelslager	Olman
Patton S.	Patton T.	Peterson	Raga
Raussen	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Slaby	Smith G.	Stewart J.
Taylor	Trakas	Wagner	Walcher

Webster	White	Widener	Widowfield
Willamowski	Wilson	Wolpert	Young
			Householder-65.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Book
Brinkman	Brown	Callender	Chandler
Cirelli	DeBose	DeGeeter	Domenick
Driehaus	Hartnett	Harwood	Jerse
Key	Koziura	Mason	Miller
Otterman	Perry	Price	Redfern
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Woodard	Yates-32.

The bill passed.

Representative Seitz moved to amend the title as follows:

Add the names: "Representatives Buehrer, Calvert, Carmichael, Cates, Clancy, Collier, D. Evans, Faber, Flowers, Gibbs, Gilb, Hagan, Hoops, Martin, Raga, Reidelbach, Schaffer, Schmidt, Schneider, Setzer, G. Smith, Taylor, Trakas, Wagner, Webster, White, Widener, Widowfield, Wolpert."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**Sub. S. B. No. 115**-Senator Robert Gardner.

To amend sections 505.75, 711.001, 711.10, 711.131, 711.132, 713.21, and 713.22 and to enact section 711.133 of the Revised Code to permit the exemption from the definition of "subdivision" in the Platting Law of certain parcels of land, to permit the regulation of certain parcels between four and twenty acres for approval without plat, to change the procedure for the approval of plats by county or regional planning commissions, to provide different methods for implementing the statute authorizing the approval of certain subdivisions without the submission of a plat, to permit the payment of compensation to the appointive members of county or regional planning commissions, to permit townships to contract with other townships to administer and enforce building regulations, and to authorize the conveyance of certain state-owned real estate located in Summit County, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 83, nays 14, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Blasdel
Brinkman	Brown	Callender	Carano
Carmichael	Cates	Chandler	Clancy

Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Driehaus	Evans C.	Evans D.	Faber
Fessler	Flowers	Gibbs	Gilb
Grendell	Hartnett	Harwood	Hollister
Hoops	Hughes	Husted	Jerse
Kearns	Key	Koziura	Latta
Martin	Mason	McGregor	Miller
Niehaus	Oelslager	Olman	Otterman
Patton S.	Patton T.	Perry	Peterson
Price	Raga	Raussen	Redfern
Reidelbach	Reinhard	Schlichter	Schmidt
Schneider	Seitz	Setzer	Skindell
Slaby	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Ujvagi
Wagner	Walcher	Webster	White
Widener	Willamowski	Wilson	Wolpert
Yates	Young		Householder-83.

Those who voted in the negative were: Representatives

Beatty	Bocchieri	Book	Buehrer
Calvert	Cirelli	Domenick	Hagan
Kilbane	Schaffer	Taylor	Trakas
Widowfield			Woodard-14.

The bill passed.

Representative Daniels moved to amend the title as follows:

Add the names: "Representatives Combs, Daniels, Flowers, Schmidt, Wolpert."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**Sub. S. B. No. 156**-Senators Jordan, Roberts, Jacobson, Stivers, Armbruster, Carey, Fedor, Randy Gardner, Robert Gardner, Harris, Mallory, Mumper, Schuler, Wachtmann, Zurz. -Representatives Aslanides, Hoops, McGregor, Schlichter.

To amend section 4511.63 and to enact sections 3701.65, 4503.81, 5533.62, 5533.643, 5533.81, 5533.82, 5533.83, 5533.84, 5533.85, 5533.86, 5533.87, 5533.88, 5533.89, and 5533.90 of the Revised Code to designate State Route 48 the "U.S.A.F. Pararescue Memorial Parkway"; to name the new Interstate Route 280 bridge spanning the Maumee River in Lucas county the "Veterans' Glass City Skyway"; to designate a portion of State Route 66 in Auglaize county as the "Kenneth Jutte-John Garman Memorial Highway"; to designate a portion of United States Route 35 within Gallia county as the "Bob Evans Highway"; to designate a portion of State Route 588 and Jackson Pike within Gallia county as the "Nehemiah and Permelia Atwood Memorial Highway"; to designate State Route 160 within Gallia county as the "Charles E. Holzer

Highway"; to designate State Route 756 within Brown and Clermont counties as the "Ohio Army National Guard 216th Engineering Battalion Memorial Highway"; to designate a portion of State Route 209 within Guernsey county as the "Veterans' Memorial Highway"; to designate United States Route 24 within Defiance county as the "Defiance County Veterans Memorial Highway"; to designate a portion of United States Route 250 within Tuscarawas county as the "Bill Hinig Memorial Highway"; and to designate a portion of State Route 315 within Franklin county as the "Lawrence E. Hughes Memorial Highway; to designate a portion of State Route 711 within Mahoning County as the "Robert E. Hagan Memorial Highway"; to create "Choose Life" license plates and the "Choose Life" Fund and to provide that moneys in the fund be used by the Director of Health to fund eligible private, nonprofit organizations that provide services to pregnant women who are planning to place their children for adoption; and to establish procedures for the Public Utilities Commission to designate exempt railroad crossings where certain busses and specified vehicles may cross without making the stop otherwise required of those vehicles, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 82, nays 15, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Clancy
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Domenick	Driehaus	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Grendell	Hagan	Harwood
Hoops	Hughes	Husted	Jerse
Kearns	Kilbane	Koziura	Latta
Martin	McGregor	Niehaus	Oelslager
Olman	Otterman	Patton S.	Patton T.
Perry	Peterson	Price	Raga
Raussen	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Slaby	Smith G.	Stewart J.
Sykes	Taylor	Trakas	Wagner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wilson	Wolpert
Young			Householder-82.

Those who voted in the negative were: Representatives

Chandler	Cirelli	Hartnett	Hollister
Key	Mason	Miller	Redfern

Skindell  
Ujvagi

Smith S.  
Woodard

Stewart D.

Strahorn  
Yates-15.

The bill passed.

Representative Reinhard moved to amend the title as follows:

Add the names: "Brinkman, Buehrer, Calvert, Clancy, Combs, Driehaus, C. Evans, Faber, Flowers, Gibbs, Gilb, Grendell, Hagan, Hughes, Husted, Martin, Niehaus, Oelslager, Olman, Raussen, Reidelbach, Schaffer, Schmidt, Schneider, G. Smith, Taylor, White, Widowfield, Willamowski, Young."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**Sub. S. B. No. 202**-Senators Mumper, Austria, White, Roberts.

-Representatives Aslanides, Gibbs, C. Evans, Niehaus, Schlichter, Widener.

To amend sections 183.12, 317.32, 505.101, 901.21, 901.22, 917.01, 917.02, 917.031, 917.09, 917.091, 917.19, 917.22, 918.01, 918.02, 918.08, 918.11, 918.25, 918.28, 921.06, 921.23, 955.51 to 955.53, 1515.01, 1515.14, 1515.21, 1515.24, 3707.38, 3715.65, 5301.68, 5301.691, and 6131.23, to enact sections 1515.18, 1515.181, 1515.182, 1515.183, 1515.184, 1515.185, 1515.19, 1515.191, 1515.192, 1515.193, and 1515.211, and to repeal section 1515.20 of the Revised Code to revise the laws governing the inspection of meat and poultry, claims for injuries to certain animals by coyotes or black vultures, dairies, agricultural easements, licensure for purposes of applying pesticides, and applications concerning new drugs; to authorize soil and water conservation districts to acquire agricultural easements; to authorize a board of township trustees to enter into a contract with a soil and water conservation district, without advertising or bidding, for the purchase of services; to establish procedures and other requirements governing the construction of an improvement by a soil and water conservation district; to include money from tax levies for the benefit of local soil and water conservation districts in matching state grants to those districts; to extend the maximum repayment period for bonds sold by a board of county commissioners for soil and water conservation district improvements; and to authorize the Director of Agriculture and the Director of Development to appoint designees to serve in their places as ex officio officers of the board of trustees of the Southern Ohio Agricultural and Community Development Foundation, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 97, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen  
Blasdel

Aslanides  
Bocchieri

Barrett  
Book

Beatty  
Brinkman



Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Chandler
Cirelli	Clancy	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fessler
Flowers	Gibbs	Gilb	Grendell
Hagan	Hartnett	Harwood	Hollister
Hoops	Hughes	Husted	Jerse
Kearns	Key	Kilbane	Koziura
Latta	Martin	Mason	McGregor
Miller	Niehaus	Oelslager	Olman
Otterman	Patton S.	Patton T.	Perry
Peterson	Price	Raga	Raussen
Redfern	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Skindell	Slaby	Smith G.
Smith S.	Stewart D.	Stewart J.	Strahorn
Sykes	Taylor	Trakas	Ujvagi
Wagner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wilson
Wolpert	Woodard	Yates	Young
			Householder-97.

The bill passed.

The title was agreed to.

**Sub. S. B. No. 209**-Senators Mumper, Austria, Harris, White.

-Representatives Aslanides, Gibbs, Book, Carmichael, Domenick, C. Evans, Niehaus, Schlichter, Setzer, Walcher, Widener.

To amend sections 505.94, 2925.01, 4517.02, 4707.01, 4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18 to 4707.22, 4707.26, and 4707.99 and to enact sections 4707.022, 4707.023, 4707.024, 4707.073, 4707.074, 4707.091, and 4707.32 of the Revised Code to revise the Auctioneers Law, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Aslanides moved to amend as follows:

In line 16, after "4707.32" insert "of the Revised Code"

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

Representative Niehaus moved to amend as follows:

In line 10, after "505.94," insert "1321.20,"

In line 14, delete "and"; after "4707.99" insert ", 4727.03, 4727.04, and 4727.06"

Between lines 55 and 56, insert:

**"Sec. 1321.20.** (A) Every person licensed or registered under this chapter shall pay to the superintendent of financial institutions, prior to the last day of June, an annual license or certificate of registration fee. On or about the fifteenth day of April of each year, the superintendent shall determine the license or certificate fees to be charged, pursuant to sections 1321.03, 1321.05, 1321.53, and 1321.73 of the Revised Code. Such determination shall be made by dividing the appropriation for the consumer finance section of the division of financial institutions for the current fiscal year by the number of licenses and certificates issued as of the date of the computation. In no event shall the amount of the fee exceed three hundred dollars, except that the maximum fee which may be charged insurance premium finance companies licensed under section 1321.73 of the Revised Code shall not exceed three hundred seventy-five dollars. Prior to the first day of June of each year, the superintendent shall inform each person licensed or registered under this chapter of the amount of the license or certificate fee for the succeeding fiscal year as determined by this section.

(B)(1) Each person licensed under Chapter 4727. of the Revised Code who is subject to annual license renewal under division (E)(1) of section 4727.03 of the Revised Code shall, prior to the last day of June, shall pay to the superintendent a fee equal to twice the amount of the fee determined by the superintendent pursuant to division (A) of this section. However, in no event shall the amount of the fee exceed three hundred dollars.

(2) Each person licensed under Chapter 4727. of the Revised Code who is subject to biennial license renewal under division (E)(2) of section 4727.03 of the Revised Code shall, prior to the date the license expires, pay to the superintendent a fee equal to four times the amount of the fee determined by the superintendent pursuant to division (A) of this section. However, in no event shall the amount of the fee exceed six hundred dollars.

(C) The fee for a license or certificate issued pursuant to Chapter 1321., 4727., or 4728. of the Revised Code after the first day of January ~~in any fiscal~~ of the year the license or certificate expires shall be equal to one-half the amount determined according to divisions (A) and (B) of this section or in accordance with section 4728.03 of the Revised Code.

(D) If the renewal fees billed by the superintendent pursuant to divisions (A) and (B) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each person licensed pursuant to section 1321.04 or registered pursuant to section 1321.53 of the Revised Code at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each person shall pay the assessed amount to the superintendent prior to the last

day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that person during the previous calendar year. If an assessment is imposed under this division, it shall not be less than two hundred fifty dollars per licensee or registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A) of this section by each licensee or registrant."

Between lines 2184 and 2185, insert:

"**Sec. 4727.03.** (A) As used in this section, "experience and fitness in the capacity involved" means that the applicant for a pawnbroker's license demonstrates sufficient financial responsibility, reputation, and experience in the pawnbroker business, or in a related business, to act as a pawnbroker in compliance with this chapter. "Experience and fitness in the capacity involved" shall be determined by:

(1) Prior or current ownership or management of, or employment in, a pawnshop;

(2) Demonstration to the satisfaction of the superintendent of financial institutions of a thorough working knowledge of all pawnbroker laws and rules as they relate to the actual operation of a pawnshop.

A demonstration shall include a demonstration of an ability to properly complete forms, knowledge of how to properly calculate interest and storage charges, and knowledge of legal notice and forfeiture procedures. The final determination of whether an applicant's demonstration is adequate rests with the superintendent of financial institutions.

(3) A submission by the applicant and any stockholders, owners, managers, directors, or officers of the pawnshop, and employees of the applicant to a police record check; and

(4) Liquid assets in a minimum amount of one hundred thousand dollars at the time of applying for initial licensure and demonstration of the ability to maintain the liquid assets at a minimum amount of fifty thousand dollars for the duration of holding a valid pawnbroker's license.

(B) The superintendent may grant a license to act as a pawnbroker to any person of good character and having experience and fitness in the capacity involved to engage in the business of pawnbroking upon the payment to the superintendent of a license fee determined by the superintendent pursuant to section 1321.20 of the Revised Code. A license is not transferable or assignable.

(C) The superintendent may consider an application withdrawn and may retain the investigation fee required under division (D) of this section if both of the following are true:

(1) An application for a license does not contain all of the information required under division (B) of this section.

(2) The information is not submitted to the superintendent within ninety days after the superintendent requests the information from the applicant in writing.

(D) The superintendent shall require an applicant for a pawnbroker's license to pay to the superintendent a nonrefundable initial investigation fee of two hundred dollars, which is for the exclusive use of the state. ~~The~~

(E)(1) Except as otherwise provided in division (E)(2) of this section, a pawnbroker's license shall be issued by the superintendent and shall expire on the thirtieth day of June next following the date of its issuance, and may be renewed annually by the thirtieth day of June in accordance with the standard renewal procedure set forth in Chapter 4745. of the Revised Code. Fifty per cent of the annual license fee shall be for the use of the state, and fifty per cent shall be paid by the state to the municipal corporation, or if outside the limits of any municipal corporation, to the county, in which the office of the licensee is located. All such fees payable to municipal corporations or counties shall be paid annually.

~~(E) Every~~ (2) A pawnbroker's license shall be issued or renewed annually by the thirtieth day of June according to superintendent on or after January 1, 2006, expires on the thirtieth day of June in the even-numbered year next following the date of its issuance or renewal, as applicable, and may be renewed biennially by the thirtieth day of June in accordance with the standard renewal procedure set forth in Chapter 4745. of the Revised Code. Fifty per cent of the biennial license fee shall be for the use of the state, and fifty per cent shall be paid by the state to the municipal corporation, or if outside the limits of any municipal corporation, to the county, in which the office of the licensee is located. All such fees payable to municipal corporations or counties shall be paid biennially.

(E) The fee for renewal of a license shall be equivalent to the fee for an initial license established by the superintendent pursuant to section 1321.20 of the Revised Code. Any licensee who wishes to renew the pawnbroker's license but who fails to do so on or before the thirtieth day of June date the license expires shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless the licensee pays to the superintendent on or before the thirty-first day of August of the year the license expires, a late renewal penalty of one hundred dollars in addition to the regular renewal fee. Any licensee who fails to renew the license on or before the thirtieth day of June date the license expires is prohibited from acting as a pawnbroker until the license is renewed or a new license is issued under this section. Any licensee who renews a license between the first day of July and the thirty-first day of August of the year the license expires is not relieved from complying with this division. The superintendent may refuse to issue to or renew the license of any licensee who violates this division.

~~(F)~~ (G) No license shall be granted to any person not a resident of or the principal office of which is not located in the municipal corporation or county

designated in such license unless that applicant, in writing and in due form approved by and filed with the superintendent, first appoints an agent, a resident of the state, and city or county where the office is to be located, upon whom all judicial and other process, or legal notice, directed to the applicant may be served. In case of the death, removal from the state, or any legal disability or any disqualification of any such agent, service of such process or notice may be made upon the superintendent.

The superintendent may, upon notice to the licensee and reasonable opportunity to be heard, suspend or revoke any license or assess a penalty against the licensee if the licensee, or the licensee's officers, agents, or employees, has violated this chapter. Any penalty shall be appropriate to the violation but in no case shall the penalty be less than two hundred nor more than two thousand dollars. Whenever, for any cause, a license is suspended or revoked, the superintendent shall not issue another license to the licensee nor to the legal spouse of the licensee, nor to any business entity of which the licensee is an officer or member or partner, nor to any person employed by the licensee, until the expiration of at least two years from the date of revocation or suspension of the license. The superintendent shall deposit all penalties allocated pursuant to this section into the state treasury to the credit of the consumer finance fund.

Any proceedings for the revocation or suspension of a license or to assess a penalty against a licensee are subject to Chapter 119. of the Revised Code.

~~(G)~~(H) If a licensee surrenders or chooses not to renew the pawnbroker's license, the licensee shall notify the superintendent thirty days prior to the date on which the licensee intends to close the licensee's business as a pawnbroker. Prior to the date, the licensee shall do either of the following with respect to all active loans:

(1) Dispose of an active loan by selling the loan to another person holding a valid pawnbroker's license issued under this section;

(2) Reduce the rate of interest on pledged articles held as security for a loan to eight per cent per annum or less effective on the date that the pawnbroker's license is no longer valid.

**Sec. 4727.04.** (A) An application for a pawnbroker's license shall state fully the name and address of the applicant and of every member, partner, stockholder, or owner of an applicant, and the location of the office or place of business in which the business is conducted; and in the case of a corporation, shall also state the date and place of its incorporation, the name and address of its manager, the names and addresses of its directors, the name and address of the agent as provided in section 4727.03 of the Revised Code, and any other information required by the superintendent of financial institutions.

The license shall be kept posted in a conspicuous place in the office where the business is transacted. No person so licensed shall transact or solicit business under any other name or at any location other than at the address stated

in the person's license. No licensee may move the licensee's business location without prior notification to the superintendent of at least thirty days. If the licensee moves out of the municipal corporation or county in which the licensee was originally licensed, the licensee shall pay an additional ~~annual~~ license fee equivalent to the fee for an initial license to be distributed in accordance with section 4727.03 of the Revised Code.

(B) The superintendent may issue to a pawnbroker licensed under this chapter a temporary exhibition permit pursuant to division (C)(1) of section 4728.04 of the Revised Code.

(1) A licensee who wishes to be issued a temporary permit pursuant to division (C)(1) of section 4728.04 of the Revised Code shall make request for such issuance by letter addressed to the superintendent. The letter of request shall contain the licensee's name, permanent business address, and license number.

(2) Upon receipt of a temporary exhibition permit, the permit holder shall conspicuously display the permit at the place where the permit holder transacts business at any auction, convention, exhibition, fair, or show.

(3) Every permit holder who wishes to participate in an auction, convention, exhibition, fair, or show, at least two weeks prior to its opening, shall notify the superintendent and the chief of police of the municipal corporation in which the event is to take place, or if the event is to take place outside of any municipal corporation, then the sheriff of the county in which the event is to take place. Such notification shall be by letter and shall include the permit holder's name, permanent business address, and permit number, and the place where the event is scheduled to be held.

(C) Every licensee shall post at the main door of the licensee's place of business the hours or times when the establishment is open for business. No licensee shall collect interest and storage on any loan for any regular business day that the establishment is not open for business as posted, unless prior notice of a closing is posted on the door or the closing is occasioned by an act of God, unforeseen emergency, or other event beyond the control of the licensee. A licensee shall notify the superintendent of any change in the posted hours of operation.

(D) No licensee shall fail to observe the posted hours of operation pursuant to division (C) of this section except as authorized by that division.

**Sec. 4727.06.** (A) No pawnbroker shall charge, receive, or demand interest for any loan in excess of five per cent per month or fraction of a month on the unpaid principal. Interest shall be computed on a monthly basis on the amount of the principal remaining unpaid on the first day of the month and shall not be compounded.

(B) In addition to the rate of interest limitation imposed pursuant to division (A) of this section, the licensee may charge no more than:

(1) ~~Three~~Four dollars per month or fraction of a month for all pledged articles held as security or stored for a loan, to be agreed to in writing at the time the loan is made;

(2) Four dollars plus the actual cost of shipping, when the licensee is to deliver or forward the pledged article by express or parcel post to the pledgor;

(3) Two dollars for the loss of the original statement issued to the pledgor by the licensee pursuant to section 4727.07 of the Revised Code upon redemption of the pledged articles;

(4) Two dollars for the cost of notifying a pledgor by mail that the pledged articles may be forfeited to the licensee pursuant to section 4727.11 of the Revised Code.

(C) A licensee who complies with the requirements or procedures of this state pursuant to the application of the "Brady Handgun Violence Protection Act," 107 Stat. 1536 (1993), 18 U.S.C.A. 922, as amended, may charge any fee the licensee is required by law to pay in order to comply with such requirements or procedures. The licensee may charge no more than two dollars for providing services in compliance with such requirements or procedures.

(D) A pledgor may pay a portion of the outstanding principal loan balance at any time. A pledgor may redeem a pawn loan at any time after seventy-two hours have passed since the pledge was made. A pledgor may not prepay interest or storage charges, except when the pledgor redeems the pledged property."

In line 2185, after "505.94," insert "1321.20,"

In line 2189 delete "and"; after "4707.99" insert ", 4727.03, 4727.04, and 4727.06"

In line 1 of the title, after "505.94" insert "1321.20,"

In line 6 of the title, delete the first "and"; after "4707.99" insert ", 4727.03, 4727.04, and 4727.06"

In line 9 of the title, after "Law" insert "and to modify the Pawnbrokers Law with respect to license renewal and fees"

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 91, nays 5, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Chandler
Cirelli	Clancy	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fessler

Flowers	Gibbs	Gilb	Grendell
Hagan	Hartnett	Harwood	Hollister
Hoops	Hughes	Husted	Jerse
Kearns	Key	Kilbane	Koziura
Latta	Martin	McGregor	Miller
Niehaus	Oelslager	Olman	Otterman
Patton S.	Patton T.	Perry	Peterson
Price	Raga	Raussen	Redfern
Reidelbach	Schaffer	Schlichter	Schmidt
Schneider	Seitz	Setzer	Slaby
Smith G.	Smith S.	Stewart D.	Stewart J.
Strahorn	Taylor	Ujvagi	Wagner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Woodard
Yates	Young		Householder-91.

Representatives Mason, Reinhard, Skindell, Trakas, and Wilson voted in the negative-5.

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 96, nays 1, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Chandler
Cirelli	Clancy	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fessler
Flowers	Gibbs	Gilb	Grendell
Hagan	Hartnett	Harwood	Hollister
Hoops	Hughes	Husted	Jerse
Kearns	Key	Kilbane	Koziura
Latta	Martin	Mason	McGregor
Miller	Niehaus	Oelslager	Olman
Otterman	Patton S.	Patton T.	Perry
Peterson	Price	Raga	Raussen
Redfern	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Skindell	Slaby	Smith G.
Smith S.	Stewart D.	Stewart J.	Strahorn
Sykes	Taylor	Trakas	Ujvagi
Wagner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert
Woodard	Yates	Young	Householder-96.

Representative Wilson voted in the negative-1.

The bill passed.

Representative Aslanides moved to amend the title as follows:



Add the names: "Collier, T. Patton."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Representative Cates moved that House Rule 65, pertaining to bills being placed on the calendar, be suspended and that **Sub. S. B. No. 196**-Senator Wachtmann, et al. be taken up for immediate consideration the third time.

The motion was agreed to without objection.

**Sub. S. B. No. 196**-Senators Wachtmann, Blessing, Fedor, Dann.  
-Representatives Combs, Miller, DeGeeter, McGregor, Collier, Distel, Schaffer.

To amend sections 4729.01 and 4755.48 of the Revised Code regarding the compounding of drugs by pharmacists and modifications to the requirements to practice physical therapy without a prescription or a referral, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Faber moved to amend as follows:

In line 6, after "4729.01" insert ", 4731.91,"

Between lines 201 and 202, insert:

"**Sec. 4731.91.** (A) No private hospital, private hospital director, or governing board of a private hospital is required to permit an abortion.

(B) No public hospital, public hospital director, or governing board of a public hospital is required to permit an abortion.

(C) Refusal to permit an abortion is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

(D) No person is required to perform or participate in medical procedures or distribution of any medication which will or may result in abortion or termination of life, and refusal to perform or participate in the medical procedures or distribution of medication is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

(E) Whoever violates division (D) of this section is liable in civil damages."

In line 255, after "4729.01" insert ", 4731.91,"

In line 1 of the title, after "4729.01" insert ", 4731.91,"

In line 5 of the title, after "referral" insert ", and to amend the law concerning distribution of medication that will or may result in abortion or termination of life and performance of medical procedures that will or may result in termination of life"

The question being, "Shall the motion to amend be agreed to?"

Representative Beatty moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 36, nays 58, as follows:

Those who voted in the affirmative were: Representatives

Allen	Barrett	Beatty	Boccieri
Book	Brown	Carano	Chandler
Cirelli	DeBose	DeGeeter	Distel
Hartnett	Harwood	Hollister	Jerse
Key	Koziura	Mason	Miller
Niehaus	Patton S.	Patton T.	Peterson
Price	Redfern	Skindell	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Trakas	Webster	Wilson	Yates-36.

Those who voted in the negative were: Representatives

Aslanides	Brinkman	Buehrer	Callender
Calvert	Carmichael	Cates	Clancy
Collier	Combs	Core	DeWine
Domenick	Driehaus	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Grendell	Hagan	Hoops
Hughes	Husted	Kearns	Kilbane
Latta	Martin	McGregor	Oelslager
Olman	Otterman	Perry	Raga
Rausen	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Slaby	Smith G.	Taylor
Ujvagi	Wagner	Walcher	White
Widener	Widowfield	Willamowski	Wolpert
Woodard			Householder-58.

The motion to amend was not laid on the table.

The question recurring, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 64, nays 30, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Boccieri
Brinkman	Buehrer	Callender	Calvert
Carmichael	Cates	Clancy	Collier
Combs	Core	DeGeeter	DeWine
Distel	Domenick	Driehaus	Evans C.
Evans D.	Faber	Fessler	Flowers
Gibbs	Gilb	Grendell	Hagan
Hartnett	Hoops	Hughes	Husted
Jerse	Kearns	Latta	Martin
McGregor	Niehaus	Oelslager	Olman
Patton T.	Perry	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter

Schmidt	Schneider	Seitz	Setzer
Slaby	Smith G.	Taylor	Wagner
Walcher	White	Widener	Widowfield
Willamowski	Wilson	Wolpert	Householder-64.

Those who voted in the negative were: Representatives

Barrett	Beatty	Book	Brown
Carano	Chandler	Cirelli	DeBose
Harwood	Key	Kilbane	Koziura
Mason	Miller	Otterman	Patton S.
Peterson	Price	Redfern	Skindell
Smith S.	Stewart D.	Stewart J.	Strahorn
Sykes	Trakas	Ujvagi	Webster
Woodard			Yates-30.

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

Representative Seitz moved to amend as follows:

In line 6, delete "of the Revised"

In line 7, delete "Code"; after "amended" insert "and sections 2315.18, 2315.19, and 2323.44 of the Revised Code be enacted"

Between lines 7 and 8, insert:

**"Sec. 2315.18. (A) As used in this section and in section 2315.19 of the Revised Code:**

(1) "Asbestos claim" has the same meaning as in section 2307.91 of the Revised Code.

(2) "Economic loss" means any of the following types of pecuniary harm:

(a) All wages, salaries, or other compensation lost as a result of an injury or loss to person or property that is a subject of a tort action;

(b) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations as a result of an injury or loss to person or property that is a subject of a tort action;

(c) Any other expenditures incurred as a result of an injury or loss to person or property that is a subject of a tort action, other than attorney's fees incurred in connection with that action.

(3) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.

(4) "Noneconomic loss" means nonpecuniary harm that results from an injury or loss to person or property that is a subject of a tort action, including, but not limited to, pain and suffering, loss of society, consortium,

companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, disfigurement, mental anguish, and any other intangible loss.

(5) "Occurrence" means all claims resulting from or arising out of any one person's bodily injury.

(6) "Product liability claim" has the same meaning as in section 2307.71 of the Revised Code.

(7) "Tort action" means a civil action for damages for injury or loss to person or property. "Tort action" includes a civil action upon a product liability claim or an asbestos claim. "Tort action" does not include a civil action upon a medical claim, dental claim, optometric claim, or chiropractic claim or a civil action for damages for a breach of contract or another agreement between persons.

(8) "Trier of fact" means the jury or, in a nonjury action, the court.

(B) In a tort action to recover damages for injury or loss to person or property, all of the following apply:

(1) There shall not be any limitation on the amount of compensatory damages that represents the economic loss of the person who is awarded the damages in the tort action.

(2) Except as otherwise provided in division (B)(3) of this section, the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action under this section to recover damages for injury or loss to person or property shall not exceed the greater of two hundred fifty thousand dollars or an amount that is equal to three times the economic loss, as determined by the trier of fact, of the plaintiff in that tort action to a maximum of three hundred fifty thousand dollars for each plaintiff in that tort action or a maximum of five hundred thousand dollars for each occurrence that is the basis of that tort action.

(3) There shall not be any limitation on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action to recover damages for injury or loss to person or property if the noneconomic losses of the plaintiff are for either of the following:

(a) Permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system;

(b) Permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life-sustaining activities.

(C) In determining an award of compensatory damages for noneconomic loss in a tort action, the trier of fact shall not consider any of the following:

(1) Evidence of a defendant's alleged wrongdoing, misconduct, or guilt;

(2) Evidence of the defendant's wealth or financial resources;

(3) All other evidence that is offered for the purpose of punishing the defendant, rather than offered for a compensatory purpose.

(D) If a trial is conducted in a tort action to recover damages for injury or loss to person or property and a plaintiff prevails in that action, the court in a nonjury trial shall make findings of fact, and the jury in a jury trial shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following:

(1) The total compensatory damages recoverable by the plaintiff;

(2) The portion of the total compensatory damages that represents damages for economic loss;

(3) The portion of the total compensatory damages that represents damages for noneconomic loss.

(E)(1) After the trier of fact in a tort action to recover damages for injury or loss to person or property complies with division (D) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for economic loss in the amount determined pursuant to division (D)(2) of this section, and, subject to division (F)(1) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for noneconomic loss. Except as provided in division (B)(3) of this section, in no event shall a judgment for compensatory damages for noneconomic loss exceed the maximum recoverable amount that represents damages for noneconomic loss as provided in division (B)(2) of this section. Division (B) of this section shall be applied in a jury trial only after the jury has made its factual findings and determination as to the damages.

(2) Prior to the trial in the tort action described in division (D) of this section, any party may seek summary judgment with respect to the nature of the alleged injury or loss to person or property, seeking a determination of the damages as described in division (B)(2) of this section.

(F)(1) A court of common pleas has no jurisdiction to enter judgment on an award of compensatory damages for noneconomic loss in excess of the limits set forth in this section.

(2) If the trier of fact is a jury, the court shall not instruct the jury with respect to the limit on compensatory damages for noneconomic loss described in division (B)(2) of this section, and neither counsel for any party nor a witness shall inform the jury or potential jurors of that limit.

(G) With respect to a tort action to which division (B)(2) of this section applies, any excess amount of compensatory damages for noneconomic loss that is greater than the applicable amount specified in division (B)(2) of this section shall not be reallocated to any other tortfeasor beyond the amount of compensatory damages that the tortfeasor would otherwise be responsible for

under the laws of this state.

(H) This section does not apply to any of the following:

(1) Tort actions that are brought against the state in the court of claims, including, but not limited to, those actions in which a state university or college is a defendant and to which division (B)(3) of section 3345.40 of the Revised Code applies;

(2) Tort actions that are brought against political subdivisions of this state and that are commenced under or are subject to Chapter 2744. of the Revised Code. Division (C) of section 2744.05 of the Revised Code applies to recoverable damages in those actions.

(3) Wrongful death actions brought pursuant to Chapter 2125. of the Revised Code.

(I) If the provisions regarding the limits on compensatory damages for noneconomic loss set forth in division (B)(2) of this section have been determined to be unconstitutional, then division (C) of this section and section 2315.19 of the Revised Code shall govern the determination of an award of compensatory damages for noneconomic loss in a tort action.

Sec. 2315.19. (A)(1) Upon a post-judgment motion, a trial court in a tort action shall review the evidence supporting an award of compensatory damages for noneconomic loss that is challenged as inadequate or excessive. That review shall include, but is not limited to, the following factors:

(a) Whether the evidence presented or the arguments of the attorneys resulted in one or more of the following events in the determination of an award of compensatory damages for noneconomic loss:

(i) It inflamed the passion or prejudice of the trier of fact.

(ii) It resulted in the improper consideration of the wealth or lack of wealth of the defendant.

(iii) It resulted in the improper consideration of the misconduct of a party so as to punish that party improperly or in circumvention of the limitation on punitive or exemplary damages as provided in section 2315.21 of the Revised Code.

(b) Whether the verdict is less than or in excess of verdicts involving comparable injuries to similarly situated plaintiffs;

(c) Whether there were any extraordinary circumstances in the record to account for an award of compensatory damages for noneconomic loss less than or in excess of what was granted by courts to similarly situated plaintiffs, with consideration given to the type of injury, the severity of the injury, and the plaintiff's age at the time of the injury.

(2) The party that has challenged an award of compensatory damages for noneconomic loss as inadequate or excessive has the burden of proof to show

that the award for noneconomic loss is inadequate or excessive.

(B) A trial court upholding an award of compensatory damages for noneconomic loss that a party has challenged as inadequate or excessive shall set forth in writing its reasons for upholding the award.

(C) An appellate court shall use a de novo standard of review when considering an appeal of an award of compensatory damages for noneconomic loss on the grounds that the award is inadequate or excessive.

**Sec. 2323.44.** (A) The gross recovery of any settlement or judgment shall be divided with at least two-thirds going to the claimant and with the subrogated insurance benefits provider being reimbursed for the subrogated interest not to exceed one-third of the total gross recovery. The claimant shall be responsible for attorney's fees.

(B) Prior to any settlement, judgment, or other adjudication, the claimant shall notify any insurance benefits provider of the identity of all third parties against whom the claimant has or, to the knowledge of the claimant or the claimant's attorney, may have a right of recovery. Any insurance benefits provider that is not given such notice of any claim prior to settlement, judgment, or other adjudication is not subject to this section.

(C) Any insurance policy language that conflicts with the subrogation provisions of this section is void.

(D) As used in this section:

(1) "Gross recovery" means all moneys received from third-party coverage, underinsured motorist coverage, uninsured motorist coverage, medical payments coverage, personal injury protection coverage, no-fault coverage, liability insurance, excess insurance, umbrella insurance policies, and all proceeds from all insurers, all private and public entities, and the tortfeasor.

(2) "Insurance benefits provider" means an insurer providing insurance under Chapters 1751., 3923., and 3937. of the Revised Code.

(3) "Subrogated interest" means any sums for which the subrogated insurance benefits providers have a subrogated right of reimbursement and includes, but is not limited to, any medical or other expense for which the claimant sought recovery in the underlying tort action or claim."

After line 256, insert:

"**Section 3.** Section 2323.44 of the Revised Code, as enacted by this act, shall take effect January 1, 2006."

In line 1 of the title, after "4755.48" insert "and to enact sections 2315.18, 2315.19, and 2323.44"

In line 5 of the title, after "referral" insert "and regarding noneconomic damage caps, evidence relevant to noneconomic damages, and subrogation interests in tort actions or claims"

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 83, nays 12, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Blasdel
Bocchieri	Book	Brinkman	Brown
Callender	Calvert	Carano	Carmichael
Cates	Chandler	Clancy	Collier
Combs	Core	Daniels	DeBose
DeGeeter	DeWine	Distel	Domenick
Driehaus	Evans C.	Evans D.	Faber
Fessler	Flowers	Gibbs	Grendell
Hartnett	Harwood	Hollister	Hoops
Hughes	Husted	Kearns	Key
Kilbane	Koziura	Latta	Martin
Mason	McGregor	Miller	Niehaus
Oelslager	Olman	Patton T.	Perry
Peterson	Price	Raga	Raussen
Redfern	Reidelbach	Reinhard	Schaffer
Schlichter	Schmidt	Schneider	Seitz
Setzer	Skindell	Slaby	Stewart D.
Stewart J.	Strahorn	Trakas	Ujvagi
Walcher	Webster	White	Widener
Willamowski	Wilson	Wolpert	Woodard
Yates	Young		Householder-83.

Those who voted in the negative were: Representatives

Beatty	Buehrer	Cirelli	Gilb
Hagan	Otterman	Smith G.	Smith S.
Sykes	Taylor	Wagner	Widowfield-12.

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 72, nays 23, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Bocchieri
Book	Brinkman	Buehrer	Callender
Calvert	Carano	Carmichael	Cates
Clancy	Collier	Combs	Core
Daniels	DeGeeter	DeWine	Distel
Domenick	Driehaus	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hartnett	Harwood
Hollister	Hoops	Hughes	Husted
Kearns	Kilbane	Latta	Martin
Mason	McGregor	Niehaus	Oelslager
Olman	Patton T.	Perry	Peterson
Raga	Raussen	Reidelbach	Reinhard
Schaffer	Schlichter	Schmidt	Schneider
Seitz	Setzer	Slaby	Smith G.



Taylor	Trakas	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wilson	Wolpert	Young	Householder-72.

Those who voted in the negative were: Representatives

Barrett	Beatty	Brown	Chandler
Cirelli	DeBose	Grendell	Key
Koziura	Miller	Otterman	Price
Redfern	Skindell	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Ujvagi
Wagner	Woodard		Yates-23.

The bill passed.

Representative Schaffer moved to amend the title as follows:

Add the names: "Driehaus, Faber, Martin, Schmidt, Slaby, Willamowski."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Representative Cates moved that House Rule 65, pertaining to bills being placed on the calendar, be suspended and that **Sub. S.B. No. 250** - Senators Coughlin, et al., be taken up for immediate consideration the third time.

The question being, "Shall the motion to suspend House Rule 65 be agreed to?"

The yeas and nays were taken and resulted - yeas 65, nays 28, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Brinkman	Buehrer
Callender	Calvert	Carmichael	Cates
Chandler	Cirelli	Clancy	Collier
Combs	Core	Daniels	DeWine
Distel	Evans C.	Evans D.	Faber
Fessler	Flowers	Gibbs	Gilb
Grendell	Hagan	Hartnett	Hollister
Hoops	Hughes	Husted	Kearns
Kilbane	Latta	Martin	McGregor
Niehaus	Patton T.	Perry	Peterson
Raga	Rausen	Reidelbach	Reinhard
Schaffer	Schlichter	Schmidt	Seitz
Setzer	Slaby	Smith G.	Stewart J.
Taylor	Trakas	Wagner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wilson	Wolpert	Young
			Householder-65.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocieri
Book	Brown	Carano	DeBose

DeGeeter	Domenick	Driehaus	Harwood
Key	Koziura	Mason	Miller
Oelslager	Otterman	Price	Redfern
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Woodard	Yates-28.

The motion was agreed to.

**Sub. S. B. No. 250**-Senators Coughlin, Harris, Mumper, Fedor, Fingerhut, Goodman, Schuler, Randy Gardner, Carey, Miller, Mallory, Amstutz, Dann, Hottinger, Roberts, Robert Gardner, Hagan, Jordan, Schuring, Wachtmann, Armbruster, Spada, Austria, White. -Representatives White, Fessler, Blasdel, Combs, Hollister, Hoops, Kearns, Martin, Olman, Reidelbach, Schneider, Slaby, G. Smith, S. Smith, Barrett, Beatty, Cirelli, DeBose, Harwood, Price, Yates.

To enact sections 5.2228 and 101.38 of the Revised Code to designate May as Ohio Cystic Fibrosis Awareness Month and to create the Ohio Cystic Fibrosis Legislative Task Force to advise the State of Ohio on issues pertaining to the care and treatment of individuals with cystic fibrosis, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 96, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Chandler
Cirelli	Clancy	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fessler
Flowers	Gibbs	Gilb	Grendell
Hagan	Hartnett	Harwood	Hollister
Hoops	Hughes	Husted	Jerse
Kearns	Key	Kilbane	Koziura
Latta	Martin	Mason	McGregor
Miller	Niehaus	Oelslager	Olman
Otterman	Patton T.	Perry	Peterson
Price	Raga	Raussen	Redfern
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seitz	Setzer
Skindell	Slaby	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Ujvagi	Wagner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wilson	Wolpert
Woodard	Yates	Young	Householder-96.

The bill passed.

Representative Fessler moved to amend the title as follows:

Add the names: "Allen, Aslanides, Boccieri, Book, Brown, Buehrer, Calvert, Carano, Carmichael, Chandler, Clancy, Daniels, DeGeeter, Domenick, Driehaus, C. Evans, D. Evans, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Hughes, Key, Latta, Mason, Miller, Niehaus, Otterman, T. Patton, Perry, Raga, Reinhard, Schaffer, Schlichter, Schmidt, Setzer, Skindell, Slaby, D. Stewart, J. Stewart, Taylor, Wagner, Walcher, Webster, Widener, Widowfield, Willamowski, Woodard."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

On motion of Representative Cates, the House adjourned until Thursday, December 9, 2004 at 11:00 o'clock a.m.

Attest:

LAURA P. CLEMENS,  
Clerk.