

# AN ACT

To amend sections 2305.113, 2305.51, and 2317.43 and to enact sections 2305.2311, 2317.44, 2317.45, and 2323.451 of the Revised Code to grant qualified civil immunity to certain medical providers and emergency medical technicians who provide emergency medical services as a result of a disaster and through its duration; to provide that certain communications made regarding an unanticipated outcome of medical care, the development or implementation of standards under federal laws, and an insurer's reimbursement policies on health care are inadmissible as evidence in a medical claim; to specify the manner of sending a notice of intent to file a medical claim and provide a procedure for the discovery of other potential claims within a specified period after the filing of a medical claim; to provide civil immunity to certain medical providers regarding the discharge of a patient with a mental condition that threatens the safety of the patient or others; and to clarify the definition of "medical claim."

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2305.113, 2305.51, and 2317.43 be amended and sections 2305.2311, 2317.44, 2317.45, and 2323.451 of the Revised Code be enacted to read as follows:

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) A claimant who allegedly possesses a medical claim and who intends to give to the person who is the subject of that claim the written notice described in division (B)(1) of this section shall give that notice by sending it by certified mail, return receipt requested, addressed to any of the following:

(a) The person's residence;

(b) The person's professional practice;

(c) The person's employer;

(d) The address of the person on file with the state medical board or other appropriate agency that issued the person's professional license.

(3) 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 registered 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 ~~plan of care~~, medical diagnosis, care, or treatment of a person;

(b) Derivative claims for relief that arise from the plan of care prepared for a resident of a home;

(c) Claims that arise out of the ~~plan of care~~, medical diagnosis, care, or treatment of any person or claims that arise out of the plan of care prepared for a resident of a home and to which both types of claims 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.

~~(e)-(d)~~ Claims that arise out of the plan of care, medical diagnosis, or treatment of any person and that are brought under section 3721.17 of the Revised Code;

~~(d)-(e)~~ Claims that arise out of skilled nursing care or personal care services provided in a home pursuant to the plan of care, medical diagnosis, or treatment.

(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 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 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 registered nurse" means any certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under 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 board of nursing pursuant to Chapter 4723. of the Revised Code.

(18) "Physician assistant" means any person who is licensed as a physician assistant under 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.

(20) "Skilled nursing care" and "personal care services" have the same meanings as in section 3721.01 of the Revised Code.

Sec. 2305.2311. (A) As used in this section:

(1) "Advanced practice registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as an advanced practice registered nurse.

(2) "Dentist" has the same meaning as in section 2305.231 of the Revised Code.

(3) "Disaster" means any occurrence of widespread personal injury or loss of life that results from any natural or technological phenomenon or act of a human, or an epidemic and is declared to be a disaster by the federal government, the state government, or a political subdivision of this state.

(4) "Emergency medical technician" means an EMT-basic, an EMT-I, or a paramedic.

(5) "EMT-basic" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-basic.

(6) "EMT-I" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-intermediate.

(7) "Health care provider" means an advanced practice registered nurse, a registered nurse, a pharmacist, a dentist, an optometrist, a physician, a physician assistant, or a hospital.

(8) "Hospital" and "medical claim" have the same meanings as in section 2305.113 of the Revised Code.

(9) "Optometrist" means a person who is licensed under Chapter 4725. of the Revised Code to practice optometry.

(10) "Paramedic" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-paramedic.

(11) "Pharmacist" means an individual who holds a current, valid license issued under Chapter 4729. of the Revised Code to practice as a pharmacist.

(12) "Physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(13) "Physician assistant" means an individual who is authorized under Chapter 4730. of the Revised Code to practice as a physician assistant.

(14) "Reckless disregard" as it applies to a given health care provider or emergency medical technician rendering emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, means conduct that a health care provider or emergency medical technician knew or should have known, at the time those services or that treatment or care were rendered, created an unreasonable risk of injury, death, or loss to person or property so as to affect the life or health of another and that risk was substantially greater than that which is necessary to make the conduct negligent.

(15) "Registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as a registered nurse.

(16) "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 governmental entities. "Tort action" includes an action on a medical claim.

(B) Subject to division (C)(3) of this section, a health care provider or emergency medical technician that provides emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, as a result of a disaster is not liable in damages to any person in a tort action for injury, death, or loss to person or property that allegedly arises from an act or omission of the health care provider or emergency medical technician in the health care provider's or emergency medical technician's provision of those services or that treatment or care if that act or omission does not constitute reckless disregard for the consequences so as to affect the life or health of the patient.

(C)(1) This section does not create a new cause of action or substantive legal right against a health care provider or emergency medical technician.

(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 provider or emergency medical technician may be entitled in connection with the provision of emergency medical services, first-aid treatment, or other emergency professional care, including the provision of medication or other medical product.

(3) This section does not grant an immunity from tort or other civil liability to a health care provider or emergency medical technician for actions that are outside the scope of authority of the health care provider or emergency medical technician.

(4) This section does not affect any legal responsibility of a health care provider or emergency medical technician to comply with any applicable law of this state or rule of an agency of this state.

(5) This section applies only to the provision of emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, by a health care provider or emergency medical technician as a result of a disaster and through the duration of the disaster.

(D) This section does not apply to a tort action alleging wrongful death against a health care provider or emergency medical technician that provides emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, that allegedly arises from an act or omission of the health care provider or emergency medical technician in the health care provider's or emergency medical technician's provision of those services or that treatment or care as a result of a disaster.

Sec. 2305.51. (A)(1) As used in this section:

(a) "Civil Rights" has the same meaning as in section 5122.301 of the Revised Code.

(b) "Mental health client or patient" means an individual who is receiving mental health services from a mental health professional or organization.

(c) "Mental health organization" means an organization that engages one or more mental health professionals to provide mental health services to one or more mental health clients or patients.

(d) "Mental health professional" means an individual who is licensed, certified, or registered under the Revised Code, or otherwise authorized in this state, to provide mental health services for compensation, remuneration, or other personal gain.

(e) "Mental health service" means a service provided to an individual or group of individuals involving the application of medical, psychiatric, psychological, professional counseling, social work, marriage and family therapy, or nursing principles or procedures to either of the following:

(i) The assessment, diagnosis, prevention, treatment, or amelioration of mental, emotional, psychiatric, psychological, or psychosocial disorders or diseases, as described in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association;

(ii) The assessment or improvement of mental, emotional, psychiatric, psychological, or psychosocial adjustment or functioning, regardless of whether there is a diagnosable, pre-existing disorder or disease.

(f) "Knowledgeable person" means an individual who has reason to believe that a mental health client or patient has the intent and ability to carry out an explicit threat of inflicting imminent

and serious physical harm to or causing the death of a clearly identifiable potential victim or victims and who is either an immediate family member of the client or patient or an individual who otherwise personally knows the client or patient.

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

(h) "Hospital" has the same meaning as in section 2305.25 of the Revised Code.

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

(j) "Physician assistant" has the same meaning as in section 4730.01 of the Revised Code.

(2) For the purpose of this section, in the case of a threat to a readily identifiable structure, "clearly identifiable potential victim" includes any potential occupant of the structure.

(B) A mental health professional or mental health organization may be held liable in damages in a civil action, or may be made subject to disciplinary action by an entity with licensing or other regulatory authority over the professional or organization, for serious physical harm or death resulting from failing to predict, warn of, or take precautions to provide protection from the violent behavior of a mental health client or patient, only if the client or patient or a knowledgeable person has communicated to the professional or organization an explicit threat of inflicting imminent and serious physical harm to or causing the death of one or more clearly identifiable potential victims, the professional or organization has reason to believe that the client or patient has the intent and ability to carry out the threat, and the professional or organization fails to take one or more of the following actions in a timely manner:

(1) Exercise any authority the professional or organization possesses to hospitalize the client or patient on an emergency basis pursuant to section 5122.10 of the Revised Code;

(2) Exercise any authority the professional or organization possesses to have the client or patient involuntarily or voluntarily hospitalized under Chapter 5122. of the Revised Code;

(3) Establish and undertake a documented treatment plan that is reasonably calculated, according to appropriate standards of professional practice, to eliminate the possibility that the client or patient will carry out the threat, and, concurrent with establishing and undertaking the treatment plan, initiate arrangements for a second opinion risk assessment through a management consultation about the treatment plan with, in the case of a mental health organization, the clinical director of the organization, or, in the case of a mental health professional who is not acting as part of a mental health organization, any mental health professional who is licensed to engage in independent practice;

(4) Communicate to a law enforcement agency with jurisdiction in the area where each potential victim resides, where a structure threatened by a mental health client or patient is located, or where the mental health client or patient resides, and if feasible, communicate to each potential victim or a potential victim's parent or guardian if the potential victim is a minor or has been adjudicated incompetent, all of the following information:

(a) The nature of the threat;

(b) The identity of the mental health client or patient making the threat;

(c) The identity of each potential victim of the threat.

(C) All of the following apply when a mental health professional or organization takes one or

more of the actions set forth in divisions (B)(1) to (4) of this section:

(1) The mental health professional or organization shall consider each of the alternatives set forth and shall document the reasons for choosing or rejecting each alternative.

(2) The mental health professional or organization may give special consideration to those alternatives which, consistent with public safety, would least abridge the rights of the mental health client or patient established under the Revised Code, including the rights specified in sections 5122.27 to 5122.31 of the Revised Code.

(3) The mental health professional or organization is not required to take an action that, in the exercise of reasonable professional judgment, would physically endanger the professional or organization, increase the danger to a potential victim, or increase the danger to the mental health client or patient.

(4) The mental health professional or organization is not liable in damages in a civil action, and shall not be made subject to disciplinary action by any entity with licensing or other regulatory authority over the professional or organization, for disclosing any confidential information about a mental health client or patient that is disclosed for the purpose of taking any of the actions.

(D) Notwithstanding any other provision of the Revised Code, a physician, physician assistant, advanced practice registered nurse, or hospital is not liable in damages in a civil action, and shall not be made subject to disciplinary action by any entity with licensing or other regulatory authority, for doing either of the following:

(1) Failing to discharge or to allow a patient to leave the facility if the physician, physician assistant, advanced practice registered nurse, or hospital believes in the good faith exercise of professional medical, advanced practice registered nursing, or physician assistant judgment according to appropriate standards of professional practice that the patient has a mental health condition that threatens the safety of the patient or others;

(2) Discharging a patient whom the physician, physician assistant, advanced practice registered nurse, or hospital believes in the good faith exercise of professional medical, advanced practice registered nursing, or physician assistant judgment according to appropriate standards of professional practice not to have a mental health condition that threatens the safety of the patient or others.

(E) The immunities from civil liability and disciplinary action conferred by this section are in addition to and not in limitation of any immunity conferred on a mental health professional or organization or on a physician, physician assistant, advanced practice registered nurse, or hospital by any other section of the Revised Code or by judicial precedent.

~~(E)-(F)~~ This section does not affect the civil rights of a mental health client or patient under Ohio or federal law.

Sec. 2317.43. (A)(1) In any civil action brought by an alleged victim of an unanticipated outcome of medical care or in any arbitration proceeding related to such a civil action, any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, error, fault, or a general sense of benevolence that are made by a health care provider ~~or,~~ an employee of a health care provider, or a representative of a health care provider to the alleged victim, a relative of the alleged victim, or a representative of the alleged victim, and that relate to the discomfort, pain, suffering, injury, or death of the alleged victim as the result of the



unanticipated outcome of medical care are inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

(2) If any statements, affirmations, gestures, or conduct that are described in division (A)(1) of this section or any reference to them are included in the medical record pertaining to the victim of an unanticipated outcome of medical care, only the portions of the medical record that include those statements, affirmations, gestures, or conduct or any reference to them are inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

(B)(1) When made as part of a review conducted in good faith by the health care provider, an employee of the health care provider, or a representative of the health care provider into the cause of or reasons for an unanticipated outcome of medical care, the following communications are inadmissible as evidence in any civil action brought by an alleged victim of an unanticipated outcome of medical care, in any arbitration proceeding related to such a civil action, or in any other civil proceeding, unless the communications are recorded in the medical record of the alleged victim, subject to division (A)(2) of this section:

(a) Any communications made by a health care provider, an employee of a health care provider, or a representative of a health care provider to the alleged victim, a relative or acquaintance of the alleged victim, or a representative of the alleged victim;

(b) Any communications made by an alleged victim, a relative or acquaintance of the alleged victim, or a representative of the alleged victim to the health care provider, an employee of a health care provider, or a representative of a health care provider.

(2) Nothing in this section requires a review to be conducted.

(C) For purposes of this section, unless the context otherwise requires:

(1) "Health care provider" has the same meaning as in division (B)(5) of section 2317.02 of the Revised Code.

(2) "Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes said relationships that are created as a result of adoption. In addition, "relative" includes any person who has a family-type relationship with a victim.

(3) "Representative of an alleged victim" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

(4) "Representative of a health care provider" means an attorney, health care provider, employee of a health care provider, or other person designated by a health care provider or an employee of a health care provider to participate in a review conducted by a health care provider or employee of a health care provider.

(5) "Review" means the policy, procedures, and activities undertaken by or at the direction of a health care provider, employee of a health care provider, or person designated by a health care provider or employee of a health care provider with the purpose of determining the cause of or reasons for an unanticipated outcome, and initiated and completed during the first forty-five days following the occurrence or discovery of an unanticipated outcome. A review shall be initiated by verbal communication to the patient, relative of the patient, or representative of the patient by the health care provider, employee of a health care provider, or person designated by a health care

provider or employee of a health care provider. The verbal communication shall be followed by a written document explaining the review process. A review may be extended for a longer period if necessary upon written notice to the patient, relative of the patient, or representative of the patient.

(6) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result or any outcome that is adverse or not satisfactory to the patient.

Sec. 2317.44. (A) As used in this section:

(1) "Health care provider" means any person or entity against whom a medical claim may be asserted in a civil action.

(2) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.

(B) Any guideline, regulation, or other standard under any provision of the "Patient Protection and Affordable Care Act," 124 Stat. 119 (2010), 42 U.S.C. 18001 et seq., as amended, Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq., as amended, and Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., as amended, shall not be construed to establish the standard of care or duty of care owed by a health care provider to a patient in a medical claim and is not admissible as evidence for or against any party in any civil action based upon the medical claim or in any civil or administrative action involving the licensing or licensure status of the health care provider.

Sec. 2317.45. (A) As used in this section:

(1) "Health care provider" means any person or entity against whom a medical claim may be asserted in a civil action.

(2) "Insurer" means any public or private entity doing or authorized to do any insurance business in this state. "Insurer" includes a self-insuring employer and the United States centers for medicare and medicaid services.

(3) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.

(4) "Reimbursement determination" means an insurer's determination of whether the insurer will reimburse a health care provider for health care services and the amount of that reimbursement.

(5) "Reimbursement policies" means an insurer's policies and procedures governing its decisions regarding the reimbursement of a health care provider for health care services and the method of reimbursement.

(B) Any insurer's reimbursement policies or reimbursement determination or regulations issued by the United States centers for medicare and medicaid services or the Ohio department of medicaid regarding the health care services provided to the patient in any civil action based on a medical claim are not admissible as evidence for or against any party in the action and may not be used to establish a standard of care or breach of that standard of care in the action.

Sec. 2323.451. (A)(1) As used in this section, "medical claim" has the same meaning as in section 2305.113 of the Revised Code.

(2) This section may be used in lieu of, and not in addition to, division (B)(1) of section 2305.113 of the Revised Code.

(B) At the time of filing a complaint asserting a medical claim, the plaintiff shall file with the complaint, pursuant to rule 10(D) of the Rules of Civil Procedure, an affidavit of merit relative to each defendant named in the complaint or a motion to extend the period of time to file an affidavit of merit.

(C) The parties may conduct discovery as permitted by the Rules of Civil Procedure. Additionally, for the period of time specified in division (D)(2) of this section, the parties may seek to discover the existence or identity of any other potential medical claims or defendants that are not included or named in the complaint. All parties shall provide the discovery under this division in accordance with the Rules of Civil Procedure.

(D)(1) Within the period of time specified in division (D)(2) of this section, the plaintiff, in an amendment to the complaint pursuant to rule 15 of the Rules of Civil Procedure, may join in the action any additional medical claim or defendant if the original one-year period of limitation applicable to that additional medical claim or defendant had not expired prior to the date the original complaint was filed. The plaintiff shall file an affidavit of merit supporting the joinder of the additional medical claim or defendant or a motion to extend the period of time to file an affidavit of merit pursuant to rule 10(D) of the Rules of Civil Procedure with the amendment to the complaint.

(2) If a complaint is filed under this section prior to the expiration of the one-year period of limitation applicable to medical claims under section 2305.113 of the Revised Code, then the period of time in which the parties may conduct the discovery under division (C) of this section and in which the plaintiff may join in the action any additional medical claim or defendant under division (D)(1) of this section shall be equal to the balance of any days remaining from the filing of the complaint to the expiration of that one-year period of limitation, plus one hundred eighty days from the filing of the complaint.

(E) Subject to division (F) of this section, after the expiration of the one-hundred-eighty-day period described in division (D)(2) of this section, the plaintiff shall not join any additional medical claim or defendant to the action unless the medical claim is for wrongful death, and the period of limitation for the claim under section 2125.02 of the Revised Code has not expired.

(F) This section does not modify or affect and shall not be construed as modifying or affecting any provision of the Revised Code, rule of common law, or Ohio Rules of Civil Procedure that applies to the commencement of the period of limitation for medical claims that are asserted or defendants that are joined after the expiration of the one-hundred-eighty-day period described in division (D)(2) of this section.

SECTION 2. That existing sections 2305.113, 2305.51, and 2317.43 of the Revised Code are hereby repealed.

SECTION 3. (A) Section 2323.451 of the Revised Code, as enacted by this act, applies to a civil action that is based upon a medical claim and that is filed on or after the effective date of this act.

(B) As used in division (A) of this section, "medical claim" has the same meaning as in section 2305.113 of the Revised Code.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_