

Publications

Health Care Alert: Ohio Enacts COVID-19 Related Health Care Measures

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On Friday, March 27, 2020, Governor DeWine signed HB 197, Ohio's emergency COVID-19 response legislation, which had been unanimously passed by the Ohio General Assembly. In addition to providing emergency support to Ohio's health care industry, the legislation covers a variety of other issues, addressed in our [previous alert](#). Below is a brief overview of the key provisions impacting Ohio health care providers.

Ohio Medicaid Community Provider Designation

The bill authorizes the Ohio Director of Medicaid to classify certain Medicaid providers as COVID-19 "community providers," and to direct and make enhanced Medicaid payments to these providers. The Medicaid Director may utilize this emergency rule during the Ohio State of Emergency due to COVID-19, or until December 1, 2020, whichever is earlier.

The Medicaid Director is required to specify any requirements that the COVID-19 community providers must meet, any enhanced rates or additional services reimbursements for these providers, and methods of payment. The Vorys health care team will provide more detailed information on these requirements once they are released.

These enhanced payments may be funded by previously appropriated funds, in addition to requested additional designated funds. The bill also empowers the Medicaid Director to facilitate payments to COVID-19 community providers by transferring funds to both the Department of Developmental Disabilities and the Department of Mental Health and Addiction Services through intrastate transfer vouchers.

Temporary Licensure for Recent Graduates of Nursing Schools

In order to address the maintenance of an adequate and safe nurse workforce, the legislation authorizes the Ohio Board of Nursing (Board) to grant temporary licenses to practice nursing as an RN or LPN to

recent graduates of nursing programs who have not yet taken the National Council Licensing Examination (NCLEX). These temporary licenses shall be valid until the earlier of 90 days after the Ohio Covid-19 state of emergency is lifted or 90 days after December 1, 2020.

The Ohio Board of Nursing has posted information on its [website](#), which explains the licensure process for these individuals, as well as helpful [FAQs](#). Applicants will need to submit documentation demonstrating that they have successfully completed an accredited nursing program. Criminal background checks will continue to be required. The Board of Nursing estimates that this law will allow 4,000 – 5,000 nursing education students in the state to apply for these temporary licenses.

This measure is in addition to the “declared disaster” exception of the Ohio Nurse Practice Act, which allows nurses who hold an active, valid license in another state to practice in Ohio without an Ohio nursing license for the duration of any declared disaster, including the current COVID-19 declared emergency. See [here](#) for more information regarding the Board’s process for applying for reciprocity and obtaining temporary permits.

Expansion of Deadlines for Renewal of Professional Licenses

If a person is required to take action to renew a professional license issued by state agencies and political subdivisions during the period of the COVID-19 emergency, the license is not required to be renewed until 90 days after the COVID-19 emergency expires, or December 1, 2020, whichever is earlier.

Expansion of CRNA Scope of Practice

Finally, the bill permanently expands the scope of practice of Certified Registered Nurse Anesthetists (CRNA). Under revised O.R.C. § 4723.433, a CRNA may, when performing clinical support functions, direct an RN, LPN or RT to provide supportive care, including monitoring vital signs, conducting electrocardiograms, and administering IV fluids if the nurse or therapist is authorized by law to provide such care. Additionally, the CRNA may, when performing clinical support functions, direct the nurse or therapist to administer treatments, drugs, and IV fluids to treat conditions related to the administration of anesthesia, if the nurse or therapist is authorized by law to do so, and a physician, podiatrist or dentist ordered the treatments, drugs and IV fluids.

Further, under newly passed O.R.C. § 4723.434, during the time period that begins with the patient’s admission for a surgery or procedure to a health care facility until the patient’s discharge from recovery, the CRNA may engage in one or more of the following activities:

- Performing and documenting evaluations and assessments, which may include ordering and evaluating one of more diagnostic tests for conditions related to the administration of anesthesia.
- Selecting, ordering and administering treatments, drugs, and IV fluids for conditions related to the administration of anesthesia.
- Directing RNs, LPNs, and RTs to perform either or both of the following activities:
 - Providing supportive care, including monitoring vital signs, conducting electrocardiograms, and administering IV fluids; and

- Administering treatments, drugs and IV fluids to treat conditions related to the administration of anesthesia.

A CRNA may not engage in the activities delineated in § 4723.434 unless the nurse is physically present at the health care facility; the supervising physician, podiatrist or dentist is physically present at the facility; and the health care facility has adopted a written policy regarding the CRNA's standards and procedures. A supervising physician, podiatrist or dentist or the health care facility may determine that it is not in a patient's best interest for the CRNA to perform certain activities, and if so, this shall be documented in the patient's chart.

Health care facilities are required to adopt standards and procedures to be followed by CRNAs when performing the following activities:

- Selecting, ordering and administering drugs, treatments, and IV fluids;
- Ordering diagnostic tests and evaluating those tests; and
- Directing RNs, LPNs and RTs to perform certain activities.

When developing these policies, the facility may not authorize a CRNA to select, order or administer any drug that their supervising physician, podiatrist or dentist is not authorized to prescribe. Further the health care facility is required to allow a supervising physician, podiatrist or dentist to issue every order related to a patient's anesthesia care.

If you have questions about HB-197 and its impact on your organization, please contact Suzanne Scrutton, Lisa Reisz, Jolie Havens, Matt Albers, Liam Gruz, Stephanie Angeloni, Robin Amicon, Robin Canowitz, or your regular Vorys attorney.

Vorys has and will continue to provide practice-specific updates related to Ohio's relief efforts and the federal government's relief efforts. We have put a team in place to assist you in navigating the myriad issues related to these stimulus measures. To see the team, [click here](#).

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Vorys COVID-19 Task Force

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive Coronavirus Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at vorys.com/coronavirus.