A BILL

To amend sections 3702.30, 3727.05, 4731.14, 4731.281, 4731.29, 4731.56, and 4731.57 and to enact sections 3727.061, 3901.89, and 5164.302 of the Revised Code to prohibit a physician from being required to secure a maintenance of licensure, reimbursement, or employment or obtaining admitting privileges or surgical privileges at a hospital or health care facility.

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

Section 1. That sections 3702.30, 3727.05, 4731.14, 4731.281, 4731.29, 4731.56, and 4731.57 be amended and sections 3727.061, 3901.89, and 5164.302 of the Revised Code be enacted to read as follows:

Sec. 3702.30. (A) As used in this section:

(1) "Ambulatory surgical facility" means a facility, whether or not part of the same organization as a hospital, that is located in a building distinct from another in which
inpatient care is provided, and to which any of the following apply:

(a) Outpatient surgery is routinely performed in the facility, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(b) Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(c) The facility applies to be certified by the United States centers for medicare and medicaid services as an ambulatory surgical center for purposes of reimbursement under Part B of the medicare program, Part B of Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(d) The facility applies to be certified by a national accrediting body approved by the centers for medicare and medicaid services for purposes of deemed compliance with the conditions for participating in the medicare program as an ambulatory surgical center.

(e) The facility bills or receives from any third-party payer, governmental health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services.

(f) The facility is held out to any person or government entity as an ambulatory surgical facility or similar facility by means of signage, advertising, or other promotional efforts.
"Ambulatory surgical facility" does not include a hospital emergency department.

(2) "Ambulatory surgical facility fee" means a fee for certain overhead costs associated with providing surgical services in an outpatient setting. A fee is an ambulatory surgical facility fee only if it directly or indirectly pays for costs associated with any of the following:

(a) Use of operating and recovery rooms, preparation areas, and waiting rooms and lounges for patients and relatives;

(b) Administrative functions, record keeping, housekeeping, utilities, and rent;

(c) Services provided by nurses, orderlies, technical personnel, and others involved in patient care related to providing surgery.

"Ambulatory surgical facility fee" does not include any additional payment in excess of a professional fee that is provided to encourage physicians, podiatrists, and dentists to perform certain surgical procedures in their office or their group practice's office rather than a health care facility, if the purpose of the additional fee is to compensate for additional cost incurred in performing office-based surgery.

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

(4) "Health care facility" means any of the following:

(a) An ambulatory surgical facility;

(b) A freestanding dialysis center;

(c) A freestanding inpatient rehabilitation facility;
(d) A freestanding birthing center;

(e) A freestanding radiation therapy center;

(f) A freestanding or mobile diagnostic imaging center.

(5) "Maintenance of certification" has the same meaning as in section 3727.061 of the Revised Code.

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

(7) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

(B) By rule adopted in accordance with sections 3702.12 and 3702.13 of the Revised Code, the director of health shall establish quality standards for health care facilities. The standards may incorporate accreditation standards or other quality standards established by any entity recognized by the director.

In the case of an ambulatory surgical facility, the standards shall require the ambulatory surgical facility to maintain an infection control program. The purposes of the program are to minimize infections and communicable diseases and facilitate a functional and sanitary environment consistent with standards of professional practice. To achieve these purposes, ambulatory surgical facility staff managing the program shall create and administer a plan designed to prevent, identify, and manage infections and communicable diseases; ensure that the program is directed by a qualified professional trained in infection control; ensure that the program is an integral part of the ambulatory surgical facility's quality assessment and
performance improvement program; and implement in an expeditious manner corrective and preventive measures that result in improvement.

(C) Every ambulatory surgical facility shall require that each physician who practices at the facility comply with all relevant provisions in the Revised Code that relate to the obtaining of informed consent from a patient.

(D) The director shall issue a license to each health care facility that makes application for a license and demonstrates to the director that it meets the quality standards established by the rules adopted under division (B) of this section and satisfies the informed consent compliance requirements specified in division (C) of this section.

(E)(1) Except as provided in division (H) of this section and in section 3702.301 of the Revised Code, no health care facility shall operate without a license issued under this section.

(2) If the department of health finds that a physician who practices at a health care facility is not complying with any provision of the Revised Code related to the obtaining of informed consent from a patient, the department shall report its finding to the state medical board, the physician, and the health care facility.

(3) This division does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a health care facility and in favor of a patient who allegedly sustains harm as a result of the failure of the patient's physician to obtain informed consent from the patient prior to performing a procedure on or otherwise caring
for the patient in the health care facility.

(F) The rules adopted under division (B) of this section shall include all of the following:

(1) Provisions governing application for, renewal, suspension, and revocation of a license under this section;

(2) Provisions governing orders issued pursuant to section 3702.32 of the Revised Code for a health care facility to cease its operations or to prohibit certain types of services provided by a health care facility;

(3) Provisions governing the imposition under section 3702.32 of the Revised Code of civil penalties for violations of this section or the rules adopted under this section, including a scale for determining the amount of the penalties;

(4) Provisions specifying the form inspectors must use when conducting inspections of ambulatory surgical facilities.

(G) An ambulatory surgical facility that performs or induces abortions shall comply with section 3701.791 of the Revised Code.

(H) The following entities are not required to obtain a license as a freestanding diagnostic imaging center issued under this section:

(1) A hospital registered under section 3701.07 of the Revised Code that provides diagnostic imaging;

(2) An entity that is reviewed as part of a hospital accreditation or certification program and that provides diagnostic imaging;

(3) An ambulatory surgical facility that provides
diagnostic imaging in conjunction with or during any portion of a surgical procedure.

(I) A health care facility shall not require a physician to secure a maintenance of certification as a condition of being employed by or contracting with the health care facility or having surgical or other privileges at the health care facility.

Sec. 3727.05. The director of health may petition the court of common pleas of the county in which a hospital is located for an order enjoining any person or any political subdivision, agency, or instrumentality of this state from violating section 3727.02 or 3727.061 of the Revised Code. Irrespective of any other remedy the director may have in law or equity, the court may grant the order upon a showing that the respondent named in the petition is violating section 3727.02 or 3727.061 of the Revised Code.

Sec. 3727.061. (A) As used in this section:

(1) "Maintenance of certification" means a continuing education program that measures core competencies in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and is approved by a national organization that certifies or accredits such continuing education programs.

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

(B) A hospital shall not require a physician to secure a maintenance of certification as a condition of being employed by or contracting with the hospital or having admitting privileges.
at the hospital.

**Sec. 3901.89.** (A) As used in this section:

(1) "Maintenance of certification" means a continuing education program that measures core competencies in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and is approved by a national organization that certifies or accredits such continuing education programs.

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

(3) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

(B) A third-party payer shall not require a physician to secure a maintenance of certification as a condition of contracting with or being reimbursed by the third-party payer.

(C) The superintendent of insurance may petition the court of common pleas of the county in which a third-party payer is located or Franklin county for an order enjoining the third-party payer from violating this section. Irrespective of any other remedy the director may have in law or equity, the court may grant the order upon a showing that the respondent named in the petition is violating this section.

**Sec. 4731.14.** (A) As used in this section, "graduate -
surgery and is approved by a national organization that certifies or accredits such continuing education programs.

(2) "Graduate medical education" has the same meaning as in section 4731.091 of the Revised Code.

(B) The state medical board shall issue its certificate to practice medicine and surgery or osteopathic medicine and surgery as follows:

(1) Subject to division (B)(3) of this section, the board shall issue its certificate to each individual who was admitted to the board's examination by meeting the educational requirements specified in division (B)(1) or (3) of section 4731.091 of the Revised Code if the individual passes the examination, pays a certificate issuance fee of three hundred dollars, and submits evidence satisfactory to the board that the individual has successfully completed not less than twelve months of graduate medical education or its equivalent as determined by the board.

(2) Except as provided in section 4731.142 of the Revised Code and subject to division (B)(3) of this section, the board shall issue its certificate to each individual who was admitted to the board's examination by meeting the educational requirements specified in division (B)(2) of section 4731.091 of the Revised Code if the individual passes the examination, pays a certificate issuance fee of three hundred dollars, submits evidence satisfactory to the board that the individual has successfully completed not less than twenty-four months of graduate medical education through the second-year level of graduate medical education or its equivalent as determined by the board, and, if the individual passed the examination prior to completing twenty-four months of graduate medical education.
or its equivalent, the individual continues to meet the moral character requirements for admission to the board's examination.

(3) The board shall not require an individual to secure a maintenance of certification as a condition of being issued a certificate to practice medicine and surgery or osteopathic medicine and surgery.

(C) Each certificate issued by the board shall be signed by its president and secretary, and attested by its seal. The certificate shall be on a form prescribed by the board and shall indicate the medical degree held by the individual to whom the certificate is issued. If the individual holds the degree of doctor of medicine, the certificate shall state that the individual is authorized to practice medicine and surgery pursuant to the laws of this state. If the individual holds the degree of doctor of osteopathic medicine, the certificate shall state that the individual is authorized to practice osteopathic medicine and surgery pursuant to the laws of this state. If the individual holds a medical degree other than the degree of doctor of medicine or doctor of osteopathic medicine, the certificate shall indicate the diploma, degree, or other document issued by the medical school or institution the individual attended and shall state that the individual is authorized to practice medicine and surgery pursuant to the laws of this state.

(D) The certificate shall be prominently displayed in the certificate holder's office or place where a major portion of the certificate holder's practice is conducted and shall entitle the holder to practice either medicine and surgery or osteopathic medicine and surgery provided the certificate holder maintains current registration as required by section 4731.281.
of the Revised Code and provided further that such certificate
has not been revoked, suspended, or limited by action of the
state medical board pursuant to this chapter.

(E) An affirmative vote of not less than six members of
the board is required for the issuance of a certificate.

Sec. 4731.281. (A)(1) Each person holding a certificate
under this chapter to practice medicine and surgery, osteopathic
medicine and surgery, or podiatric medicine and surgery wishing
to renew that certificate shall apply to the board for renewal.
Applications shall be submitted to the board in a manner
prescribed by the board. Each application shall be accompanied
by a biennial renewal fee of three hundred five dollars.
Applications shall be submitted according to the following
schedule:

(a) Persons whose last name begins with the letters "A"
through "B," on or before April 1, 2001, and the first day of
April of every odd-numbered year thereafter;

(b) Persons whose last name begins with the letters "C"
through "D," on or before January 1, 2001, and the first day of
January of every odd-numbered year thereafter;

(c) Persons whose last name begins with the letters "E"
through "G," on or before October 1, 2000, and the first day of
October of every even-numbered year thereafter;

(d) Persons whose last name begins with the letters "H"
through "K," on or before July 1, 2000, and the first day of
July of every even-numbered year thereafter;

(e) Persons whose last name begins with the letters "L"
through "M," on or before April 1, 2000, and the first day of
April of every even-numbered year thereafter;
(f) Persons whose last name begins with the letters "N" through "R," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(g) Persons whose last name begins with the letter "S," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(h) Persons whose last name begins with the letters "T" through "Z," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter.

The board shall deposit the fee in accordance with section 4731.24 of the Revised Code, except that the board shall deposit twenty dollars of the fee into the state treasury to the credit of the physician loan repayment fund created by section 3702.78 of the Revised Code.

(2) The board shall provide to every person holding a certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, a renewal notice or may provide the notice to the person through the secretary of any recognized medical, osteopathic, or podiatric society, according to the following schedule:

(a) To persons whose last name begins with the letters "A" through "B," on or before January 1, 2001, and the first day of January of every odd-numbered year thereafter;

(b) To persons whose last name begins with the letters "C" through "D," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(c) To persons whose last name begins with the letters "E" through "G," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;
(d) To persons whose last name begins with the letters "H" through "K," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;

(e) To persons whose last name begins with the letters "L" through "M," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(f) To persons whose last name begins with the letters "N" through "R," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(g) To persons whose last name begins with the letter "S," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter;

(h) To persons whose last name begins with the letters "T" through "Z," on or before April 1, 1999, and the first day of April of every odd-numbered year thereafter.

(3) Failure of any person to receive a notice of renewal from the board shall not excuse the person from the requirements contained in this section.

(4) The board's notice shall inform the applicant of the renewal procedure. The board shall provide the application for renewal in a form determined by the board.

(5) The applicant shall provide in the application the applicant's full name; the applicant's residence address, business address, and electronic mail address; the number of the applicant's certificate to practice; and any other information required by the board.

(6)(a) Except as provided in division (A)(6)(b) of this section, in the case of an applicant who prescribes or
personally furnishes opioid analgesics or benzodiazepines, as
defined in section 3719.01 of the Revised Code, the applicant
shall certify to the board whether the applicant has been
granted access to the drug database established and maintained
by the state board of pharmacy pursuant to section 4729.75 of
the Revised Code.

(b) The requirement in division (A)(6)(a) of this section
does not apply if any of the following is the case:

(i) The state board of pharmacy notifies the state medical
board pursuant to section 4729.861 of the Revised Code that the
applicant has been restricted from obtaining further information
from the drug database.

(ii) The state board of pharmacy no longer maintains the
drug database.

(iii) The applicant does not practice medicine and
surgery, osteopathic medicine and surgery, or podiatric medicine
and surgery in this state.

(c) If an applicant certifies to the state medical board
that the applicant has been granted access to the drug database
and the board finds through an audit or other means that the
applicant has not been granted access, the board may take action
under section 4731.22 of the Revised Code.

(7) The applicant shall include with the application a
list of the names and addresses of any clinical nurse
specialists, certified nurse-midwives, or certified nurse
practitioners with whom the applicant is currently
collaborating, as defined in section 4723.01 of the Revised
Code.

(8) The applicant shall report any criminal offense to
which the applicant has pleaded guilty, of which the applicant
has been found guilty, or for which the applicant has been found
eligible for intervention in lieu of conviction, since last
filing an application for a certificate to practice or renewal
of a certificate.

(9) The applicant shall execute and deliver the
application to the board in a manner prescribed by the board.

(B) As used in this division, "maintenance of
certification" means a continuing education program that
measures core competencies in the practice of medicine and
surgery, osteopathic medicine and surgery, or podiatric medicine
and surgery and is approved by a national organization that
certifies or accredits such continuing education programs.

The board shall renew a certificate under this chapter to
practice medicine and surgery, osteopathic medicine and surgery,
or podiatric medicine and surgery upon application and
qualification therefor in accordance with this section. The
board shall not require an individual to secure a maintenance of
certification as a condition of renewing a certificate to
practice medicine and surgery, osteopathic medicine and surgery,
or podiatric medicine and surgery. A renewal shall be valid for
a two-year period.

(C) Failure of any certificate holder to renew and comply
with this section shall operate automatically to suspend the
holder's certificate to practice and if applicable, the holder's
certificate to recommend issued under section 4731.30 of the
Revised Code. Continued practice after the suspension shall be
considered as practicing in violation of section 4731.41,
4731.43, or 4731.60 of the Revised Code. If the certificate has
been suspended pursuant to this division for two years or less,
it may be reinstated. The board shall reinstate a certificate to practice suspended for failure to renew upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement shall be one hundred dollars. If the certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the Revised Code, the board may restore a certificate to practice suspended for failure to renew upon an applicant's submission of a restoration application, the biennial renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4731.14, 4731.56, or 4731.57 of the Revised Code. The penalty for restoration shall be two hundred dollars. The board shall deposit the penalties in accordance with section 4731.24 of the Revised Code. Any renewal or restoration of a certificate to practice under this section shall operate automatically to renew the holder's certificate to recommend.

(D) If an individual certifies completion of the number of hours and type of continuing medical education required to renew or reinstate a certificate to practice, and the board finds through the random samples it conducts under this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than five thousand dollars. The board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of
not fewer than six members.

A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4731.22 of the Revised Code. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code.

(E) The state medical board may obtain information not protected by statutory or common law privilege from courts and other sources concerning malpractice claims against any person holding a certificate to practice under this chapter or practicing as provided in section 4731.36 of the Revised Code.

(F) Each mailing sent by the board under division (A)(2) of this section to a person holding a certificate to practice medicine and surgery or osteopathic medicine and surgery shall inform the applicant of the reporting requirement established by division (H) of section 3701.79 of the Revised Code. At the discretion of the board, the information may be included on the application for renewal or on an accompanying page.

(G) Each person holding a certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery shall give notice to the board of any of the following changes not later than thirty days after the change occurs:

(1) A change in the certificate holder's residence address, business address, or electronic mail address;

(2) A change in the list provided under division (B)(7) of this section of names and addresses of the nurses with whom the certificate holder is collaborating.

Sec. 4731.29. (A) When a person licensed to practice
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medicine and surgery or osteopathic medicine and surgery by the licensing department of another state, a diplomate of the national board of medical examiners or the national board of examiners for osteopathic physicians and surgeons, or a licentiate of the medical council of Canada wishes to remove to this state to practice, the person shall file an application with the state medical board. The board may, in its discretion, by an affirmative vote of not less than six of its members, issue its certificate to practice medicine and surgery or osteopathic medicine and surgery without requiring the applicant to submit to examination, provided the applicant submits evidence satisfactory to the board of meeting the same age, moral character, and educational requirements individuals must meet under sections 4731.08, 4731.09, 4731.091, and 4731.14 of the Revised Code and, if applicable, demonstrates proficiency in spoken English in accordance with division (E) of this section. The board shall not require an individual to secure a maintenance of certification, as defined in section 4731.14 of the Revised Code, as a condition of issuing a certificate to practice medicine and surgery or osteopathic medicine and surgery.

(B) The state medical board shall issue or deny its certificate to practice within sixty days after the receipt of a complete application under division (A) of this section. Within thirty days after receipt of an application, the state medical board shall provide the applicant with written notice of any information required before an application can be considered complete for purposes of this section.

(C) If an applicant is under investigation pursuant to section 4731.22 of the Revised Code, the state medical board shall conclude the investigation within ninety days of receipt
of a complete application unless extended by written consent of
the applicant or unless the board determines that a substantial
question of a violation of this chapter or the rules adopted
under it exists and the board has notified the applicant in
writing of the reasons for the continuation of the
investigation. If the board determines that the applicant is not
in violation, it shall issue a certificate within forty-five
days of that determination.

(D) A fee of three hundred dollars shall be submitted with
each application for certification under this section.

(E)(1) Except as provided in division (E)(2) of this
section, an applicant licensed to practice medicine and surgery
or osteopathic medicine and surgery by the licensing department
of another state who received that license based in part on
certification from the educational commission for foreign
medical graduates shall demonstrate proficiency in spoken
English if the applicant fulfilled the undergraduate
requirements for a certificate issued under this section at an
institution outside the United States. The applicant may
demonstrate such proficiency only in the manner described in
section 4731.142 of the Revised Code for individuals attempting
to receive certificates issued under section 4731.14 of the
Revised Code.

(2) An applicant described in division (E)(1) of this
section is not required to demonstrate proficiency in spoken
English if either of the following apply:

(a) During the five years immediately preceding the date
of application, the applicant's license has been unrestricted
and the applicant has been actively practicing medicine and
surgery or osteopathic medicine and surgery in the United
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(b) At the beginning of the five-year period preceding the date of application under this section, the applicant was participating in graduate medical education, as defined in section 4731.091 of the Revised Code, and since completing that education has held an unrestricted license and has been actively practicing medicine and surgery or osteopathic medicine and surgery in the United States.

c) The applicant was required to demonstrate such proficiency as a condition of receiving certification from the educational commission for foreign medical graduates.

Sec. 4731.56. As used in this section, "maintenance of certification" means a continuing education program that measures core competencies in the practice of podiatric medicine and surgery and is approved by a national organization that certifies or accredits such continuing education programs.

The state medical board shall issue its certificate to practice podiatric medicine and surgery to each applicant who passes the examination conducted under section 4731.55 of the Revised Code and has paid the treasurer of the state medical board a certificate issuance fee of three hundred dollars. The board shall not require an individual to secure a maintenance of certification as a condition of being issued a certificate to practice podiatric medicine and surgery.

Each certificate shall be signed by the board's president and secretary and attested by its seal. An affirmative vote of not less than six members of the state medical board is required for issuance of a certificate.

A certificate authorizing the practice of podiatric
medicine and surgery permits the holder the use of the title "physician" or the use of the title "surgeon" when the title is qualified by letters or words showing that the holder of the certificate is a practitioner of podiatric medicine and surgery. The certificate shall be prominently displayed in the certificate holder's office or the place where a major portion of the certificate holder's practice is conducted.

**Sec. 4731.57.** When a podiatrist licensed by the licensing authority of another state wishes to remove to this state to practice the podiatrist's profession, the state medical board may, in its discretion, by an affirmative vote of not less than six of its members, issue to the applicant a certificate to practice podiatric medicine and surgery without requiring the applicant to submit to examination, provided the applicant meets the requirements for entrance set forth in section 4731.53 of the Revised Code and pays a fee of three hundred dollars. The board shall not require an individual to secure a maintenance of certification, as defined in section 4731.56 of the Revised Code, as a condition of being issued a certificate to practice podiatric medicine and surgery. Application shall be made on a form prescribed by the board.

**Sec. 5164.302.** As used in this section, "maintenance of certification" means a continuing education program that measures core competencies in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and is approved by a national organization that certifies or accredits such continuing education programs.

The department of medicaid shall not require a physician to secure a maintenance of certification as a condition of the department entering into a provider agreement with the physician.
or revalidating an agreement.

Section 2. That existing sections 3702.30, 3727.05, 4731.14, 4731.281, 4731.29, 4731.56, and 4731.57 of the Revised Code are hereby repealed.

Section 3. This act shall be known as the "Patient Access Expansion Act."