

IN THE SUPREME COURT OF OHIO

Jennifer Giroux,

and

Thomas E. Brinkman, Jr.,

Relators,

v.

**Committee Representing the Petitioners with
Respect to the Initiative Petition Proposing
an Amendment to the Ohio Constitution
Entitled The Right to Reproductive Freedom
with Protections for Health and Safety, *et al.*,**

and

**Frank LaRose, in his official capacity as
Ohio Secretary of State,**

Respondents.

Case No. 2023-0946

Original Action Pursuant to Article II,
Section 1g of the Ohio Constitution

**MERIT BRIEF OF RESPONDENTS
THE COMMITTEE REPRESENTING PETITIONERS AND ITS MEMBERS**

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INTRODUCTION

Hundreds of thousands of Ohioans have signed a petition (“the Petition”) to place a proposed constitutional amendment (“the Amendment”) on the November ballot, titled “The Right to Reproductive Freedom with Protections for Health and Safety.” The Secretary of State has certified the Petition. Relators request that the Court intercede, invalidate the Petition, and order that the Amendment not be placed on the ballot. Their challenge is premised on the claim that Revised Code Section 3519.01(A) requires that a constitutional amendment petition include the full text of any statute that the proposed amendment may implicitly “repeal” or “amend.” Relators’ claim fails every step of the analysis. Respondents the Committee Representing Petitioners for the Right to Reproductive Freedom with Protections for Health and Safety Amendment (“the Committee”) and its members (collectively, “Committee Respondents”) respectfully submit that, for all of the reasons that follow, the Court should reject Relators’ claim and deny their requested relief.

First, as a threshold matter, the Court lacks jurisdiction. Relators invoke the Court’s original jurisdiction under Article II, Section 1g. But their claim rests on the contention that the Petition violates a statutory requirement in Section 3519.01(A) that appears nowhere in Section 1g. As further explained below, the jurisdictional grant in Section 1g does not extend to this wholly statutory claim.

But, in any event, Relators’ claim fails on its terms for two reasons. First, Relators’ novel, strained, and misleading construction of Section 3519.01(A) is wrong. Second, if Relators were right—if Section 3519.01(A) set out a standard that restricts or limits Article II, Section 1g of the Ohio Constitution—then Section 3519.01(A) would be unconstitutional. Of course, the Court need not reach the question of Section 3519.01(A)’s constitutionality if it finds that Relators misconstrue the meaning of Section 3519.01(A). Both the doctrine of constitutional avoidance and

the plain text of Section 3519.01(A) provide good reasons to do so.

What Section 3519.01(A) says is that statutory petitions that amend or repeal an existing *statute* must set out the relevant statutory text. Likewise for constitutional amendments that amend or repeal an existing *constitutional* provision. A constitutional provision can render a statute unconstitutional—a legal nullity—but does not thereby “repeal” or “amend” the statute. Were it otherwise, no constitutional amendment could be placed on the ballot unless its proponents (i) exhaustively scoured the entire Revised Code for any statute that might conceivably be implicitly “repealed” or “amended” by the proposed amendment; (ii) prognosticated with 100% accuracy which statutes the Court would conclude *are* so repealed or amended; and (iii) set out the full text of all such statutes in the petition. Whether proponents navigated this herculean labor correctly could be determined only by this Court’s issuing an advisory opinion as to the hypothetical future conflict between the proposed amendment and the statute in future lawsuits between parties not before the Court. Unsurprisingly, no petition in Ohio has ever been rejected on the theory that Section 3519.01(A) demands so much.

But assume for the sake of argument that Relators were right. The people’s petition right is established in Article II, Section 1g of the Ohio Constitution. Section 1g is, by its own terms, “self-executing.” It sets out specific requirements for a proposed constitutional amendment to be placed on the ballot by citizen initiative. It grants the General Assembly the power to pass laws that “facilitate” the “requirements of this section” but prohibits laws “limiting” or “restricting” the petition power. Yet Relators’ reading of Section 3519.01(A) would impose just this sort of limitation or restriction. Article II, Section 1g requires that a petition “contain a full and correct copy of the . . . text of . . . the proposed amendment.” It does *not* require that a petition contain the full text of statutes that the proposed constitutional amendment would implicitly “repeal” or

“amend.” In order for the Court to grant Relators the relief they seek, it would have to hold that the Petition is restricted from appearing on the ballot due to the operation of a requirement found only in Section 3519.01(A). Such a conclusion necessarily would mean that Section 3519.01(A) is unconstitutional. Either way, Relators’ claim fails.

Finally, and in any event, laches bars the claim. Relators have inexcusably delayed. They present a facial challenge to the Petition’s text, which has been fixed since March. The Attorney General certified the summary of the Petition as fair and truthful on March 2. The Ballot Board certified that the Petition proposed a single amendment on March 13. At the very latest, Relators could have brought their challenge shortly after one of those two dates. Indeed, the Court affirmed the Ballot Board’s determination that the Petition involved a single amendment in a case filed on March 20 and resolved on June 1; Relators’ present challenge could also have been adjudicated at that time. And the prejudice from Relators’ delay is severe. After the Petition certification process concluded, the Committee and its supporters invested extraordinary time, energy, and resources to secure the support of hundreds of thousands of Ohioans through signature-gathering efforts. The Secretary of State and county boards of elections also spent time, energy, and resources to validate those Ohioans’ signatures and the Secretary of State then concluded that the Petition is qualified to appear on the November 2023 ballot. Relators ask the Court to render all of this a nullity. They provide no explanation for their months-long delay in raising the issue, a delay which has severely prejudiced Committee Respondents. Laches thus provides a separate, independent basis for rejecting Relators’ claim.

The subject matter of this case stirs strong passions in Ohioans with different views. The ballot box—not this Court—is the proper forum for determining whether the Amendment will become law upon the approval of Ohioans, or whether Relators and others who share their views

will instead succeed in persuading the voters to support their position and reject the Amendment. The people of Ohio reserved for themselves the power to amend the Constitution by citizen petition. This Court should not countenance Relators' attempt to restrict that right. The Court should reject the challenge.

STATEMENT

I. The Committee submitted, and the Attorney General and Ballot Board certified, the Petition and summary.

On February 21, 2023, the Committee submitted to Ohio Attorney General David Yost a petition including the text of “The Right to Reproductive Freedom with Protections for Health and Safety” Amendment; a summary of the Amendment; and part-petitions bearing the signatures of over a thousand qualified Ohio electors. *See* Compl. Ex A & Ex. B. That submission triggered the Attorney General’s duty to transmit the part-petitions to the appropriate county boards of elections for signature verification, and to “conduct an examination of the summary.” R.C. 3519.01(A). On March 2, by letter, Attorney General Yost confirmed that the county boards of elections had verified “at least 1,000 signatures” and that he had determined that the summary was “a fair and truthful statement of the proposed constitutional amendment.” Compl. Ex. B; *see* R.C. 3519.01(A). Attorney General Yost therefore certified the summary to the Secretary of State and transmitted the Petition to the Ohio Ballot Board. *See* Compl. Ex. B.

The Attorney General’s transmission of the Petition to the Ballot Board triggered the Board’s duty to determine whether the Petition contained “only one proposed . . . constitutional amendment so as to enable the voters to vote on a proposal separately.” R.C. 3505.062(A); *see* Ohio Constitution, Article II, Section 1g. On March 13, by letter, the Board indicated that it had so determined. *See* Compl. Ex. C. The Board’s determination was unanimous. A verified copy of

the Amendment, the summary, and the Attorney General’s certification was thereafter filed with the Secretary of State. *See* R.C. 3505.062(A).

II. Two relators sued for mandamus against the Ballot Board, but this Court unanimously denied the writ.

On March 20, two relators filed an original action in this Court. *See State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023). That action sought mandamus against the Ballot Board, based on its determination that the Petition contained only one amendment, on the theory that in fact the Petition contained two. *Id.* ¶ 20. Specifically, the *DeBlase* relators argued that the Petition contained both an amendment dealing with “reproductive decisions” and another dealing with “abortion.” *Id.*

On June 1, this Court unanimously declined to issue the writ. A three-Justice plurality, applying *State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St.3d 315, 2010-Ohio-1845, 928 N.E.2d 410, held that the Amendment’s provisions were sufficiently “related to a single general purpose,” *DeBlase*, 2023-Ohio-1823, ¶ 24. A three-Justice concurrence in the judgment, authored by Chief Justice Kennedy, rejected the “single general purpose” test from *Ohio Liberty Council* as improperly burdening the right of the people to propose amendments, subject only to the requirements set out in Article II, Sections 1a and 1g and Article XVI of the Ohio Constitution. *Id.* ¶¶ 31–38 (Kennedy, C.J., concurring in judgment only). The concurrence reasoned that the Court’s *Ohio Liberty Council* decision had “improperly grafted a ‘single-subject rule’ onto the people’s power to propose amendments to the Ohio Constitution.” *Id.* ¶ 29. Accordingly, because the Amendment is “one stand-alone amendment” creating “a wholly new provision in the Ohio Constitution: Article I, Section 22,” the concurring Justices would have held that fact alone sufficient to “end the analysis” because that is all that is required under Article II, Section 1g. *Id.* ¶¶ 37, 39. Finally, Justice Fischer concurred in the judgment without writing. *See id.* at 12.

III. The Committee conducted a statewide campaign which resulted in hundreds of thousands of Ohioans signing the Petition.

After the Attorney General and Ballot Board certified the Petition, the Committee and its supporters circulated it to electors around the state. On July 5, the Committee submitted the Petition and signatures to the Secretary of State's office for verification. *See* Compl. Ex. E. On July 25, Secretary LaRose certified that the petitioners had submitted over 495,000 valid signatures from 55 counties, *id.*, far in excess of the 413,487 signatures from 44 counties required by Article II. Accordingly, Secretary LaRose directed the county boards of elections to place the Amendment on the November 7, 2023, General Election ballot. *Id.*

IV. Relators filed this “Verified Challenge” seeking to prevent the people of Ohio from voting on the Amendment this November.

On July 28, Relators Jennifer Giroux and Thomas Brinkman, Jr. filed this self-described “Verified Challenge.” *See generally* Compl. Purporting to invoke this Court's original jurisdiction, Relators seek an order invalidating the Petition; prohibiting the Amendment's placement on the November 7, 2023, General Election ballot; prohibiting Secretary LaRose from directing the boards of elections to place the Amendment on the ballot; and granting related relief. *See* Compl. at 16. Relators' challenge to the Petition is facial: they argue that the Petition fails to include information that they contend is required by Ohio law and, on that basis, must be invalidated.

Relators' challenge was filed 158 days after the Committee first submitted the Petition and summary to the Attorney General; 148 days after the Attorney General certified the Petition and summary; 137 days after the Ballot Board determined the Petition contained a single amendment, which triggered the filing of a copy of the Petition with the Secretary of State; 57 days after this Court rejected the previous challenge to the Petition; and 34 days after the Committee submitted the valid signatures of nearly half a million Ohioans to the Secretary of State.

ARGUMENT

I. Proposition of Law 1: The Ohio Supreme Court does not have jurisdiction in this case because Relators' claim does not arise from Article II, Section 1g.

Relators' challenge should be denied because this Court does not have jurisdiction under Article II, Section 1g of the Ohio Constitution to consider and resolve Relators' sole claim—that the Petition violates state *statutory* law. Relators' theory of jurisdiction is clear—they expressly invoke Article II, Section 1g and contend that it provides this Court with unbounded original and exclusive jurisdiction over “all challenges to statewide initiative petitions.” Relators' Br. 5.

But Relators' position is in direct conflict with the plain constitutional text. Section 1g provides that this Court has jurisdiction as to “all challenges made to petitions and signatures upon such petitions *under this section*.” Ohio Constitution, Article II, Section 1g (emphasis added). This language defines the Court's jurisdiction in limiting, rather than expansive, terms. Specifically, it provides jurisdiction over challenges made pursuant to the petition requirements *in Section 1g*, but that is it.

Relators' claim does not arise from any of the petition or signature requirements in Section 1g. Section 1g requires each petition to “contain a full and correct copy of the title, and text of . . . the . . . proposed amendment to the constitution,” and regulates who may sign it and how. *Id.* The basis of Relators' challenge, however, is that the Petition does not “comply with the legal mandate in R.C. 3519.01(A),” which Relators say requires constitutional amendment petitions to include the text of statutes that would be “repealed” or “amended” by their passage. Relators' Br. 6.

Relators do not—and cannot—show that Section 1g requires valid petitions to include the text of any existing statute or constitutional provision that would be “amended” or “repealed” if the Amendment were adopted. For this Court to exercise jurisdiction over Relators' claim, it would therefore have to read out of Section 1g the phrase limiting the conferred jurisdiction to claims

“under this section,” which is something it cannot and should not do. *See League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, 167 Ohio St.3d 255, 2022-Ohio-65, 192 N.E.3d 379, ¶ 94 (recognizing “settled principles that no part of the Constitution should be treated as superfluous unless that is manifestly required and that [the Court] should avoid any construction that makes a provision meaningless or inoperative” (internal quotation marks omitted)). Thus, this Court’s jurisdiction cannot reach Relators’ claim, which does not arise under Section 1g.

The Court should reject any contention that the General Assembly can expand the scope of jurisdiction under Section 1g by passing statutes that impose new restrictions on the petition power created by that Section. To the contrary, the Court cannot exercise original jurisdiction over this case pursuant to Section 3519.01, because “[i]t is a well-established principle of constitutional law that when the jurisdiction of a particular court is constitutionally defined,” as it is in Article II, Section 1g, “the legislature cannot by statute restrict or enlarge that jurisdiction unless authorized to do so by the constitution.” *ProgressOhio.org v. Kasich*, 129 Ohio St.3d 449, 2011-Ohio-4101, 953 N.E.2d 329, ¶ 3 (internal quotation marks omitted).¹

The Court’s holding in *Ohio Manufacturers’ Association v. Ohioans for Drug Price Relief Act* is not to the contrary. Although the Court stated there that its jurisdiction under Section 1g was “broad and unequivocal,” the Court immediately clarified that Section 1g “conferr[ed] . . . original exclusive jurisdiction to hear *all petition-signature challenges*.” 147 Ohio St.3d 42, 2016-Ohio-3038, 59 N.E.3d 1274, ¶ 12 (emphasis added). Section 1g, on its face, sets out rules and requirements for the submission of petition signatures and statements of circulators; what was at

¹ To the extent Relators appear to seek some relief that is typical in a writ of mandamus action, Committee Respondents note that such an action has not been properly pleaded. *See* R.C. 2731.04 (prescribing requirements for writ of mandamus actions). Thus, this Court cannot exercise original jurisdiction over Relators’ case by virtue of the nature of the relief sought.

issue in *Ohio Manufacturers*. The Court did not hold that it had broad and unequivocal jurisdiction over *any* challenge related to any statewide petition including those that do *not* “arise under this section.” Ohio Constitution, Article II, Section 1g.

For these reasons, the Court should hold that it lacks jurisdiction over Relators’ claim.

II. Proposition of Law 2: Section 3519.01(A) does not require that constitutional amendment petitions include the text of potentially implicated statutes.

Although the Court need not reach the merits for the reasons just discussed, Relators’ challenge fails as a substantive matter as well. Relators ask this Court to invalidate the Petition based on an alleged violation of a statute—Section 3519.01(A)—not a requirement set forth under Section 1g. Even assuming the matter is properly before the Court, Relators’ statutory construction argument fails. By its plain terms, Section 3519.01(A) does not require that an initiative petition list each and every statute that may ultimately be held to be in conflict with the amendment proposed by the petition. As a matter of plain and settled meaning, a constitutional provision may render a contrary statute unconstitutional—*i.e.*, may invalidate, abrogate, or limit a statute. But a constitutional provision cannot “repeal” or “amend” a statute. That is not how the Ohio Constitution works, and the handful of cases Relators cite do not show otherwise. This Court has never, to Committee Respondents’ knowledge, accepted the novel argument Relators raise. It should not do so here.

A. By its plain terms, Section 3519.01(A) requires that a constitutional amendment initiative petition include the text of *constitutional provisions* that the amendment will alter or repeal, not *statutes* with which it may conflict.

Relators’ construction of Section 3519.01(A) fails as a matter of plain meaning. “When interpreting a statute,” this Court begins “by reviewing its plain language.” *State v. Bertram*, Slip Opinion No. 2023-Ohio-1456, 2023 WL 3213491, ¶ 11 (May 3, 2023). The statutory text at issue here reads, in full: “A petition shall include the text of any existing statute or constitutional

provision that would be amended or repealed if the proposed law or constitutional amendment is adopted.” R.C. 3519.01(A). The key terms are “amended” and “repealed.”

Relators ask this Court to hold that constitutional amendments “repeal” or “amend” statutes. But as a matter of long-settled legal terminology, they do not. Constitutions and statutes are separate corpuses of law. Constitutions may render statutes “unconstitutional” or “void,” or may “invalidate,” “abrogate,” or “limit” them. But constitutional provisions do not effectuate a statute’s formal repeal, as the United States Supreme Court explained just three years ago: “[W]hen it ‘invalidates’ a law as unconstitutional, the Court of course does not formally repeal the law from the U.S. Code or the Statutes at Large.” *Barr v. Am. Ass’n of Pol. Consultants*, 140 S. Ct. 2335, 2351 n.8 (2020). “Instead, in Chief Justice Marshall’s words, the Court recognizes that the Constitution is a ‘superior, paramount law,’ and that ‘a legislative act contrary to the constitution is not law’ at all.” *Id.* (quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803)). A canvass of recent opinions of this Court and the United States Supreme Court addressing the interaction of constitutional provisions and statutes illustrates the point. *See United States v. Hansen*, 143 S. Ct. 1932, 1939 (2023) (explaining that “the overbreadth doctrine instructs a court to hold a statute facially *unconstitutional*”) (emphasis added); *State v. Ashcraft*, Slip Opinion No. 2022-Ohio-4611, 2022 WL 17870614, ¶ 45 (Dec. 23, 2022) (Stewart, J., dissenting) (arguing that a statute may be “*void* for vagueness under the Due Process Clause of the Fifth Amendment to the United States Constitution”) (emphasis added); *Barr*, 140 S. Ct. at 2351 (explaining that “the Court *invalidates* and *severs* unconstitutional provisions from the remainder of the law rather than razing whole statutes or Acts of Congress”) (emphasis added).

And although an amendment may change a constitution such that it invalidates, voids, or limits a statute where it did not before, it still does not follow that the amendment, in that

circumstance, has “amended” or “repealed” the statute. As the Ohio Constitution makes explicit, only a bill or *statutory* initiative may enact, amend or repeal a statute. Ohio Constitution, Article II, Section 15 (“The general assembly shall enact no law except by bill”); Ohio Constitution, Article II, Section 1b (discussing statutory initiatives). Stated differently, even if a court issues a decision that a statute violates the as-amended Ohio Constitution, the statute nonetheless remains on the books unless and until the General Assembly repeals it (*i.e.*, removes it from the Revised Code) or amends it (*i.e.*, changes the text of the statute that appears in the Revised Code). *See* Jonathan F. Mitchell, *The Writ-of-Erasure Fallacy*, 104 Va. L. Rev. 933, 935–36 (2018) (explaining that a “statute continues to exist, even after a court opines that it violates the Constitution, and it remains a law until it is repealed by the legislature that enacted it.”). An unconstitutional statute may be void, but in the absence of action by the General Assembly (or statutory initiative), it has been neither amended nor repealed.

The structure of the crucial statutory sentence also confirms that Relators’ construction is wrong. Properly understood, the sentence uses the disjunctive “or” to join two separate requirements, that:

- (1) A statutory petition shall include the text of any existing statute that would be amended or repealed if the proposed law is adopted; and
- (2) A constitutional petition shall include the text of any constitutional provision that would be amended or repealed if the constitutional amendment is adopted.

All the sentence does is combine those two separate, discrete requirements into a single phrase.

Tellingly, Relators try to obscure this structure by omitting the second instance of the word “statute” when they quote the provision. *See* Relators’ Br. 8. Their brief renders the crucial sentence as follows: “[A petition shall] include the text of any existing statute or constitutional

provision that would be amended or repealed if the proposed . . . constitutional amendment is adopted.” Relators Br. 8. But that alteration completely changes the meaning. If, by the same logic, one removed the phrase “constitutional amendment,” the resulting sentence would be incoherent. It would read: “A petition shall include the text of any existing statute or constitutional provision that would be amended or repealed if the proposed statute . . . is adopted.” Such a sentence is illogical because a statute cannot, in any circumstances, amend or repeal a constitutional provision. “Constitutional provisions are superior to statutes because they derive from the people, the fount of all political power, whereas statutes derive from the General Assembly, which has only the authority delegated to it by the people.” *State ex rel. One Person One Vote v. LaRose*, Slip Opinion No. 2023-Ohio-1992, 2023 WL 4037602, ¶ 31 (June 16, 2023) (quoting *Ohio Grocers Ass’n v. Levin*, 123 Ohio St.3d 303, 2009-Ohio-4872, 916 N.E.2d 446, ¶ 74 (Pfeifer, J., dissenting)). Relators’ attempt to rewrite the statute is just the other side of the same coin.

Further, the constitutional provisions governing the initiative process reflect the fundamental terminological distinction between constitutional provisions and statutes. Article II, Section 1, for instance, reserves to the people “the power to adopt or reject any law, section of any law or any item in any law appropriating money passed by the general assembly,” and *separately* reserves the power “to propose amendments to the constitution and to adopt or reject the same at the polls.” And the following sections of Article II set out a range of different procedures, many of which apply either to constitutional or to statutory amendments, but not to both. *See* Ohio Constitution, Article II, Sections 1a, 1b, 1c. Were the constitution and statutes part of a single corpus of law, there would be no need for such separate treatment.

B. Relators’ cited authorities undermine their argument.

Relators cite several cases in which they claim this Court described constitutional amendments as having the effect of amending or repealing statutes. Relators’ Br. 8–9. In fact, those

cases support the plain-meaning construction set out above. *Schwartz v. Cuyahoga County Board of Revision* summarizes the upshot of its inquiry to be whether the law in question “must be *held unconstitutional and void*.” 143 Ohio St.3d 496, 2015-Ohio-3431, 39 N.E.3d 1223, ¶ 23 (emphasis added).² As for the quoted passage from *Goff v. Gates*, Relators’ Br. 8–9, it concerns situations in which “a statute” is deemed to have repealed “existing legislation” or “the former law,” 87 Ohio St. 142, 149, 100 N.E. 329 (1912)—which is to say, other statutes. But the Amendment is not a proposed enactment of law—it is a constitutional amendment that, as discussed, cannot “repeal” state laws. Similarly, *State ex rel. Drake v. Roosa*, 11 Ohio St. 16, 27 (1860), discusses how a later “act” may repeal a prior inconsistent “act” as part of an informal analogy describing a constitutional amendment’s effect on a conflicting statute, and *Taylor v. Taylor*, 25 Ohio St. 71, 76 (1874), discusses conflicts between “two statutes.” In short, every case Relators cite turns out to confirm that in standard legal parlance, only statutory enactments “repeal” other statutes. Formally speaking, again, a constitutional provision does not “repeal” a statute, although it may render it nugatory, void, unconstitutional, a nullity, or some synonym thereof.

C. Relators’ construction would be nearly impossible to administer and would lead to absurd results.

A common-sense construction of Section 3519.01(A)’s second sentence results in a common-sense requirement that tracks the actual recent practice of petition submission in Ohio.

² The crux of the issue before the *Schwartz* Court was whether the adoption of the 1851 Constitution silently “nullified” a statute addressing property valuation. At one point in its analysis, the Court does, when citing a more than 150-year-old case, colloquially describe the analysis as concerning whether that statute was “repealed” by the adoption of the 1851 Constitution. *Schwartz*, 2015-Ohio-3431, ¶ 23 (citing *State ex rel. Evans v. Dudley*, 1 Ohio St. 437 (1853)). But that choice of terminology was of no significance in *Schwartz*, and the *Evans* decision that *Schwartz* cited never itself described a constitutional provision as “repealing” a statute. Rather, while *Evans* referred to a party’s *argument* that a constitutional amendment had “repealed” a statute, and discussed implied repeals of statutes *by statutes*, the Court itself used different terminology when describing the effect of a constitutional amendment on an inconsistent statute. *Evans*, 1 Ohio St. at 441–42, 450.

At least the last two Ohio Attorneys General have consistently certified constitutional amendment petitions that expressly set out the constitutional text to be created or deleted, but do not set out affected statutory text. *See, e.g.*, CommRespEvid 003 (petition proposing an amendment regarding General Assembly term limits, and expressly indicating language to be added to and deleted from Article II, Section 2; petition was certified on February 27, 2020); CommRespEvid 006 (petition proposing an amendment regarding the freedom to marry, and expressly indicating language to be deleted from Article XV, Section 11; petition was certified on April 14, 2014).³ Indeed, no constitutional petitions that Committee Respondents have identified have set out potentially affected statutes *at all*. Nor do Relators identify any.

Recent practice also establishes that the Attorney General is well aware of Section 3519.01(A)'s second sentence and is enforcing it consistent with its plain language. Just nine months ago, the Attorney General rejected a statutory initiative petition because it neither included “striketthroughs” of the statutory language it would have deleted, nor used “any other method to delineate the proposed changes.” *See* CommRespEvid 007–008. In other words, the official charged with enforcing Section 3519.01(A) is actively doing so and is using the plain-meaning construction of Section 3519.01(A)'s second sentence set out above.

Relators' strained construction of that second sentence, on the other hand, would convert the provision into a revolutionary—and extraordinarily byzantine—restriction on initiative petitions. Constitutional provisions, by their nature, usually set out broad, general principles of law. As Relators would have it, a constitutional petition must set out in full any statute that a new constitutional amendment might “amend” or “repeal.” Consider what that means. Citizens wishing

³ Dates of certification by the Attorney General are available at <https://www.ohioattorneygeneral.gov/Legal/Ballot-Initiatives/Petitions-Submitted-to-the-Attorney-General-s-Offi>.

to present a petition would need to canvass the *entire* Revised Code in exhaustive detail for any provision that conflicts with the proposed amendment. What’s more, they would have to divine whether any statute might be *implicitly* repealed or amended by the proposed amendment. So, intrepid citizens must now become legal scholars in the entire body of Ohio law so as to be able to ferret out any and all potential conflicts that a court might find in a future hypothetical case (or hire a veritable horde of lawyers to conduct such an analysis). They must predict—with 100% accuracy—how this Court would come out on difficult questions of constitutional and statutory interpretation. If they get it wrong just once, Relators’ reasoning continues, the whole petition is invalidated (here, *after* the petition has been certified and hundreds of thousands of Ohioans have signed it).

Assuming citizens navigate this legal thicket, they then must include the full text of *every one* of the implicitly affected statutory provisions on each part-petition. Each part-petition may well contain dozens, if not hundreds, of pages of the Revised Code. And voters trying to understand the substance of the petitions they are asked to sign would be left thoroughly confused by the sea of text. Taken all together, the initiative process would be restricted so severely that it would grind to a halt.

Relators’ statutory construction would also have profound consequences for this Court. According to Relators, whenever this Court is called on to assess a Section 3519.01(A) challenge to an initiative petition, it must issue a series of advisory opinions about whether the proposed amendment conflicts with any existing statutes. Relators do not explain how to square this approach with the Court’s longstanding instruction that it lacks authority to engage in constitutional speculation about contingent “future eventualities.” *State ex rel. Williams v. Indus. Comm’n of Ohio*, 116 Ohio St. 45, 56, 156 N.E. 101 (1927); *see also id.* (“Unlike some

jurisdictions, we are not empowered to give advisory opinions as to the constitutional validity of laws if future eventualities should occur.”). And because this Court has original and exclusive jurisdiction over challenges to initiative petitions, it would need to shoulder the entire burden alone, for every proposed amendment, on a highly expedited election-litigation schedule. This Court should decline Relators’ invitation to be thrust into the inevitable and unenviable position of offering such advisory opinions on undeveloped factual records in the context of emergency litigation such as this.

To describe such a regime is to explain why Relators’ novel construction of Section 3519.01(A) is plainly incorrect. A sampling of constitutional amendments recently certified by the Attorney General illustrates just how unworkable the initiative process would become under Relators’ view of the statute. For instance, in 2018, Ohio’s general election ballot featured a constitutional ballot initiative titled “The Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment” which sought to, among other things, reclassify certain non-serious, non-violent drug offenses as misdemeanors, reform sentencing credit programs, and change responses to non-criminal violations of probation. *See* CommRespEvid 009 (memo sent from the Director of the Ohio Criminal Sentencing Commission discussing the “potential impact” of the proposed amendment). The text of the petition itself did not contain the text of any statute impacted by the proposed amendment. *See* CommRespEvid 018–021. But as the Ohio Criminal Sentencing Commission highlighted in a memo issued two months before the election, the amendment had the potential to impact several areas of the state’s laws on drug possession offenses, rehabilitation program credits, and probation rules. *See* CommRespEvid 010–013 (noting the potential impact on Revised Code Sections 2925.03, 2925.11, 2967.193, and 2929.15(B)). Nevertheless, it does not appear the petition was ever challenged for failure to comply with Section 3519.01(A).

More recently, on June 24, 2022, the Attorney General certified a proposed constitutional amendment providing that “[a]n individual’s right to refuse any medical procedure, treatment, injection, vaccine, prophylactic, pharmaceutical, or medical device shall be absolute,” and that “[n]o law, rule, regulation, person, employer, entity, or healthcare provider shall require, mandate, or coerce any person to receive or use a medical procedure, treatment, injection, vaccine, prophylactic, pharmaceutical, or medical device nor shall the aforementioned discriminate against the individual who exercises this right.” CommRespEvid 024. According to Relators’ theory, this petition should have included the full text of a host of laws that potentially conflict with these broad rights. Implicated laws likely would include the requirement that: (i) pupils be immunized for school, *see* R.C. 3313.671 (requiring proof of pupil immunization for mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella); (ii) children be immunized for day care, *see* R.C. 5104.014 (requiring proof of the first dose of immunization for 14 different diseases); and (iii) applicants for state veterinary licenses promptly report vaccination status, *see* R.C. 4741.22. None of those laws were included in the petition.

In fact, to Committee Respondents’ knowledge, none of the nearly 100 constitutional petitions proposed or certified since the enactment of the relevant statutory language in Section 3519.01(A) has included the text of a statute “amended” or “repealed” by a proposed amendment.⁴ There is a reason for that. Relators’ tortured construction is wrong.

As further evidence of this, Relators fail to cite a single case that has invalidated a petition on the basis they set out here. Instead, they point only to cases in which courts invalidated petitions

⁴ According to the Attorney General’s website, since 2006, the Attorney General’s office has received 93 proposed petitions that sought to add, amend, or repeal parts of the Ohio Constitution. *See* Ohio Att’y Gen., *List of Petitions Submitted to the Attorney General’s Office*, <https://www.ohioattorneygeneral.gov/Legal/Ballot-Initiatives/Petitions-Submitted-to-the-Attorney-General-s-Offi> (last visited Aug. 4, 2023).

in various other irrelevant contexts: for issues with circulators’ compensation statements on part-petitions, *see In re Protest of Brooks*, 155 Ohio App.3d 370, 2003-Ohio-6348, 801 N.E.2d 503, ¶ 28; for missing circulator statements under R.C. 731.31, *see State ex rel. Abrams v. Bachrach*, 175 Ohio St. 257, 258, 193 N.E.2d 517 (1963); for missing declarations of candidacy as required under various provisions governing candidate petitions, *see State ex rel. Wilson v. Hisrich*, 69 Ohio St.3d 13, 16–17, 630 N.E.2d 319 (1994); *State ex rel. Van Aken v. Duffy*, 176 Ohio St. 105, 107, 198 N.E.2d 76 (1964); and for missing election-falsification statements under R.C. 3501.38(J), *see State ex rel. Finkbeiner v. Lucas Cnty. Bd. of Elections*, 122 Ohio St.3d 462, 2009-Ohio-3657, 912 N.E.2d 573, ¶¶ 34–39. The lack of on-point precedential support is telling.

III. Proposition of Law 3: As construed by Relators, Section 3519.01(A) violates Article II, Section 1g of the Ohio Constitution and thus is unconstitutional.

But assume Committee Respondents were wrong about all of the above. Assume that Relators’ construction of Section 3519.01(A) were correct, and the statute imposed a restriction on the petition power: no petition may be certified for the ballot unless it includes the full text of “repealed” or “amended” statutes. In that case, Section 3519.01(A) would be in plain and palpable conflict with Article II, Section 1g of the Ohio Constitution.

Section 1g is comprehensive and self-executing. In their Constitution, the people of Ohio have reserved “to themselves the power . . . *independent* of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls.” Ohio Constitution, Article II, Section 1 (emphasis added). Section 1g, in turn, sets out the procedures to propose an amendment by initiative petition. It establishes that the procedures it creates are “self-executing,” and that laws may be passed “to *facilitate* [its provisions’] operation,” but may not “*limit*[.]” or *restrict*[.]” those provisions. Ohio Constitution, Article II, Section 1g (emphasis added). As this Court has explained, Section 1g is “self-executing” because it “specifically provides for carrying

into *immediate* effect the enjoyment of the rights therein without legislative action.” *In re Protest Filed by Citizens for Merit Selection of Judges, Inc.*, 49 Ohio St.3d 102, 104 & n.1, 551 N.E.2d 150 (1990) (emphasis added). In other words, initiative petitioners who satisfy Section 1g’s requirements are entitled to have their proposed amendments appear on the ballot—full stop.

Section 1g imposes only four requirements on the form of amendment initiative petitions. First, each part-petition must “contain a full and correct copy of the title, and text of . . . the proposed amendment to the constitution.” Ohio Constitution, Article II, Section 1g. Second, each signer of the petition must write his or her own name on the appropriate space on the petition “in ink.” *Id.* Third, each signer must “place on such petition after his [or her] name the date of signing and his [or her] place of residence.” *Id.* And fourth, “the statement of the circulator . . . that he [or she] witnessed the affixing of every signature” must be attached to each part-petition. *Id.* None of those formal requirements suggests that an amendment petition must include Relators’ proposed comprehensive index of potential statutory conflicts.

In particular, Section 1g’s first requirement as to petition form—that each part-petition must “contain a full and correct copy of the . . . text of . . . the proposed amendment”—does not authorize Relators’ construction of Section 3519.01(A). That part of Section 1g means precisely what it says: the petition must include the full text of the *amendment itself*. As this Court recognized over a century ago, the text of an amendment will often be complete without any reference at all to any already-existing provision of law. *See State ex rel. Greenlund v. Fulton*, 99 Ohio St. 168, 179, 124 N.E. 172 (1919). “An amendment to the Constitution, which is made by the addition of a provision on a new and independent subject, is a *complete* thing in itself, and may be wholly disconnected with other provisions of the Constitution” *Id.* The paramount example of such amendments is, this Court noted, the federal Bill of Rights. *Id.* Accordingly, where—as

here—a proposed amendment would add an entirely new section to the Constitution without altering or deleting any existing constitutional language, Section 1g’s mandate that the petition include the “full and correct . . . text” of the amendment is satisfied so long as the petition includes the full text of the new section to be added.

As the Court also recognized in *Greenlund*, a somewhat different analysis applies when the proposed amendment would alter or delete existing constitutional language. *Id.* In that case, “the use of the word ‘amendment’ as related to some particular article or some section *of the Constitution* . . . indicate[s] an addition to, the striking out, or some change in, *that particular section*.” *Id.* (emphasis added). In such a circumstance the “full and complete . . . text” of the amendment, for purposes of Section 1g, includes the already-existing language in the Constitution to be changed or deleted. Section 1g thus authorizes Section 3519.01(A) to the extent that the statute requires a petition to indicate that the proposed amendment will change or delete *constitutional* text.⁵ But that is not what Relators are saying. Their argument goes much further, requiring the petition to include any *statutory* text it will potentially *conflict* with. Nothing in Section 1g authorizes such a requirement.

If Section 3519.01(A)’s second sentence meant what Relators say it means, it would follow that this Court should invalidate it as a provision that improperly “limit[s] or restrict[s]” the peoples’ power of initiative in violation of Section 1g. “The Ohio Constitution is the paramount law of this state,” and it “controls as written unless changed by the people themselves.” *City of Cleveland v. State*, 157 Ohio St.3d 330, 2019-Ohio-3820, 136 N.E.3d 466, ¶ 16. And as three Justices of this Court explained in rejecting a previous challenge to this very petition, Section 1g

⁵ Section 1g also authorizes the enactment of other statutes to help facilitate the initiative petition process, but those laws must fall within the scope of requirements already provided for by Section 1g, and cannot limit or restrict the initiative power.

secures “the right of the people to propose amendments to the Constitution,” and laws passed by the General Assembly “may not limit or restrict the people’s exercise of those powers.” *DeBlase*, 2023-Ohio-1823, ¶ 34 (Kennedy, C.J., concurring in judgment only)); *cf. State ex rel. Ohioans for Fair Districts v. Husted*, 130 Ohio St.3d 240, 2011-Ohio-5333, 957 N.E.2d 277, ¶ 16 (Lanzinger, J., concurring in judgment only) (“I would also note that any law that attempts to limit the right of referendum beyond the restrictions provided for in Section 1d, Article II, of the Ohio Constitution is expressly prohibited by Section 1g, Article II, of the Ohio Constitution.”).

In light of the foregoing, Relators’ theory does not lead where they think. If Section 3519.01(A) required that the Petition be invalidated, it would follow that the Court must hold instead that the Petition is valid, and that Section 3519.01(A) is unconstitutional.

IV. Proposition of Law 4: The Court need not reach the constitutional question if it concludes that Section 3519.01(A) does not require constitutional amendment initiative petitions to list amended or repealed statutes.

As explained above, a plain-meaning construction of Section 3519.01(A) avoids any conflict with Section 1g. Relators’ proposed construction, by contrast, plainly creates a conflict with Section 1g. Thus, if the Court seeks to avoid reaching the constitutional issue of whether Article II, Section 1g renders the second sentence of Section 3519.01(A) unconstitutional, it can and should deny Relators’ challenge by interpreting that sentence as it is *actually* written, not as Relators seek to rewrite it. *See State ex rel. Harris v. Rubino*, 155 Ohio St.3d 123, 2018-Ohio-3609, 119 N.E.3d 1238, ¶ 30 (“[C]ourts decide constitutional issues only when absolutely necessary.”). This interpretation, as explained above, is not only consistent with the plain text of the provision and existing case law, but is the only logical reading that will avoid absurd consequences. *See supra* Section II.

Alternatively, the Court can also avoid the constitutional issue because it is not, in fact,

appropriate on this record to conclude whether the Amendment would “amend” or “repeal” particular statutes. Absent such a conclusion, Relators’ challenge necessarily fails.

The Amendment would create an individual right to make and carry out one’s own reproductive decisions. To achieve that end, the Amendment establishes a framework whereby an individual’s right is balanced against the State’s interest in regulating individual health. Specifically, the Amendment would create “a right to make and carry out one’s own reproductive decisions,” but the State could burden or restrict that right if it “demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care.” Compl. Ex. A at 2 (full text of the Amendment).

This generally requires a fact-based analysis. If the State imposes a restriction on delineated reproductive rights, a court must consider the means used to do so. The court must consider potential alternative means for achieving the State’s interest. And it must consider whether the State has acted “in accordance with widely accepted and evidence based standards of care.” *Id.*

Relators ask the Court to do this analysis in the abstract in a case where there is no discovery and where the parties are filing briefs on an extremely expedited basis. But in order for any court in Ohio to engage in a nuanced analysis of whether the State has a legitimate interest in regulating an individual’s reproductive decisions in a given case, there must first be a tangible set of facts giving rise to a specific dispute. Instead of waiting to raise these issues when they are actually suitable for a court to resolve, Relators introduce a handful of verified complaints and affidavits from federal court cases in an effort to demonstrate that the Initiative Petition necessarily “repeals” various Ohio statutes. Relators do not explain how the allegations in a complaint in a past federal lawsuit, brought under federal law, allow the short-circuiting of the typical judicial process. Under Relators’ theory, the Court becomes a court of original jurisdiction for any

conceivable derivative question of how the Amendment—and any other future amendment—might be interpreted and applied in the future, rather than sitting as the final appellate arbiter of cases properly developed first at the trial-court level. This is an absurd reading of Section 3519.01(A), and it would exponentially expand the limited jurisdiction conferred on this Court by Article II, Section 1g.⁶

Approaching the matter with judicial restraint is all the more warranted because doing so avoid the need to find Section 3519.01(A) unconstitutional. *See, e.g., State ex rel. Essig v. Blackwell*, 103 Ohio St.3d 481, 2004-Ohio-5586, 817 N.E.2d 5, ¶ 33 (holding that the court did not need to decide whether the summary and Attorney General certification requirements of R.C. 3519.01 and 3519.05 were constitutional because it was able to resolve the case on other grounds). If the Court cannot conclude that the Amendment “repeals” the cited statutes, Relators’ challenge cannot be sustained.

V. Proposition of Law 5: Laches bars this action.

Even setting aside the other deficiencies in Relators’ claim, the doctrine of laches constitutes a complete defense to this lawsuit. “In election cases, a relator must act with the utmost diligence.” *State ex rel. Jones v. LaRose*, 169 Ohio St.3d 467, 2022-Ohio-2445, 206 N.E.3d 649, ¶ 11. “Laches may bar relief in an election matter if the person seeking relief fails to act with such

⁶ Relators’ reliance on what a federal court has said in a lawsuit concerning federal claims several years ago is also misplaced in light of the well-established principle of federalism that state courts are not confined by federal courts’ interpretations of state law. *See United States v. Thirty-Seven Photographs*, 402 U.S. 363, 369 (1971) (explaining that federal courts, including the U.S. Supreme Court, “lack jurisdiction authoritatively to construe state legislation”). Thus, neither this Court in this case, nor other state courts in other cases, when applying provisions of the Ohio Constitution, would be bound to follow federal courts’ interpretations of arguably similar provisions of the United States Constitution. *See State v. Mole*, 149 Ohio St.3d 215, 2016-Ohio-5124, 74 N.E.3d 368, ¶ 21 (“We also reaffirm that we are not confined by the federal courts’ interpretations of similar provisions in the federal Constitution any more than we are confined by other states’ high courts’ interpretations of similar provisions in their states’ constitutions.”).

diligence.” *Id.* Indeed, this Court “has routinely dismissed complaints or otherwise denied extraordinary relief in election cases due to laches.” *State ex rel. Polo v. Cuyahoga Cnty. Bd. of Elections*, 74 Ohio St.3d 143, 145, 656 N.E.2d 1277 (1995). The elements of laches are “(1) unreasonable delay or lapse of time in asserting a right, (2) absence of an excuse for the delay, (3) knowledge, actual or constructive, of the injury or wrong, and (4) prejudice to the other party.” *Id.* All four elements are satisfied here.

Unreasonable delay. Relators unreasonably delayed. Relators seek to challenge the *form* of the Petition months after it is appropriate to do so. The petitioning process begins when a committee submits a petition and summary to the Attorney General. R.C. 3519.01. The Attorney General and Ballot Board then assess the petition and summary’s compliance with the relevant, formal requirements. *Id.*; see R.C. 3505.062. After those officials make their determinations, litigants who disagree with those determinations have a window of opportunity to file form-based challenges. See R.C. 3519.01(C). That is what happened here, when the *DeBlase* relators sought mandamus against the Ballot Board based on its determination that the Petition proposed a single amendment.

Other certification decisions from Attorney General Yost establish that he is actively reviewing summary petitions’ compliance with Section 3519.01(A)’s second sentence as well as its first. Indeed, this includes decisions from just a few months before Attorney General Yost certified the Petition. See CommRespEvid 007–008 (letter from Attorney General David Yost, dated December 2, 2022, rejecting a summary petition because, among other defects, it neither contains “striketroughs of the language that is being removed, nor does it use any other method to delineate the proposed changes.”). It follows that the instant claim could have been raised on March 2, when Attorney General Yost certified this Petition. Or, at the very latest, the instant

claim, like the claim in *DeBlase*, could have been raised on March 13, when the Ballot Board certified the Petition for filing with the Secretary of State. At that point, the form of the Petition was set for circulation purposes and on file in the Secretary of State's office, and its compliance with the second sentence of Section 3519.01(A) certainly could have been tested in court. Yet Relators inexplicably waited another 137 days to bring this challenge.

Lack of excuse. Relators' Complaint and Merit Brief offer no excuse for that delay, and none exists. For the same reasons that delay was unreasonable, it is inexcusable. The Constitution and Revised Code set out a rational, logical system, authorizing legal challenges to petition formalities as soon as the Attorney General and Ballot Board certify the petition, triggering its filing with the Secretary—which is to say, *before* a committee undertakes the extraordinary labor and expense inherent in qualifying an amendment for the ballot. If Relators' action is allowed to proceed, it will undermine that entire design.

Relators' strategic choice as to cause of action further undermines any attempt to excuse their delay. Relators argue that Article II, Section 1g itself creates a freestanding cause of action within this Court's jurisdiction to challenge a petition's compliance with Section 3519.01. Were that the case—which it is not, *see supra* Section I—that freestanding cause of action based on the Petition language itself accrued no later than March 13, when that language was fixed.⁷

Knowledge of the injury. Relators had, at the least, constructive knowledge of their purported injury by this past spring. Local, national, and even international media coverage surrounding the Amendment has been constant and intense since the day it was filed.

⁷ Relators did not file a mandamus action, no doubt recognizing that claim would fail—and have waived any attempt to reframe their challenge as a petition for mandamus now. *Paeltz v. Paeltz*, 12th Dist. Warren No. CA2022-05-031, 2022-Ohio-3964, 2022 WL 16739221, ¶ 18 (“It is well established that any new arguments raised in appellants' reply brief are deemed waived and are not subject to review.”).

CommRespEvid 027–030. Relator Brinkman was a state representative until 2022 and has been focused on abortion for much of his political career. CommRespEvid 032–033. Relator Giroux was a 2022 candidate for state representative with a similar focus on abortion—it is the first issue listed on her still-active campaign website. CommRespEvid 035, 037–038. And Relators’ counsel in this action was also counsel to the *DeBlase* relators (including one John *Giroux*), who back in March challenged the Petition pursuant under the very statute on which Relators here rely. *Compare* Compl. at 1, 17 (listing Relator Jennifer Giroux and counsel Curt C. Hartman), *with* CommRespEvid 048–049 (listing Relator John Giroux and counsel Curt C. Hartman). All this suffices for an inference of constructive knowledge.

Prejudice. The prejudice to the Committee from Relators’ delay is extraordinary. Rather than bringing this challenge before the signature-collection process began in earnest, Relators are bringing it after that process has concluded. Had Relators brought this action in March or April, the Court could have ruled on Relators’ challenge with sufficient time for the Committee to amend the Petition, if necessary, and refile. Instead, Relators delayed to the last possible week, leaving the Committee no time to cure. And the relief Relators seek—the Petition’s invalidation and the Amendment’s removal from the November ballot—would moot all the Committee’s work up to this point. Over 700,000 Ohioans, from all 88 counties, signed the Petition during the four-month period between its certification and submission. CommRespEvid 079, ¶ 5. That number includes hundreds of thousands of signatures gathered by unpaid volunteer circulators. *Id.* ¶ 8. And all told, the Petition campaign cost well over \$8 million—much of it contributed by individual Ohioans who support the Amendment. *Id.* ¶¶ 10–12. After standing idly by for months while all that work was done and that expense incurred, Relators now, at the eleventh hour, ask this Court to render it

all a nullity and override the democratic participation of half a million Ohio citizens. The Court should not countenance such gamesmanship.

CONCLUSION

For the foregoing reasons, the Court should reject Relators' challenge in full.

Dated: August 4, 2023

Respectfully submitted,

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I hereby certify that the foregoing was sent via email this 4th day of August, 2023, to the following:

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APPENDIX

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Ohio Constitution, Article II

Section 1: In whom power vested

The legislative power of the state shall be vested in a general assembly consisting of a senate and house of representatives but the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any law or any item in any law appropriating money passed by the general assembly, except as hereinafter provided; and independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls. The limitations expressed in the constitution, on the power of the general assembly to enact laws, shall be deemed limitations on the power of the people to enact laws.

Section 1a: Initiative and referendum to amend constitution

The first aforesaid power reserved by the people is designated the initiative, and the signatures of ten per centum of the electors shall be required upon a petition to propose an amendment to the constitution. When a petition signed by the aforesaid required number of electors, shall have been filed with the secretary of state, and verified as herein provided, proposing an amendment to the constitution, the full text of which shall have been set forth in such petition, the secretary of state shall submit for the approval or rejection of the electors, the proposed amendment, in the manner hereinafter provided, at the next succeeding regular or general election in any year occurring subsequent to one hundred twenty-five days after the filing of such petition. The initiative petitions, above described, shall have printed across the top thereof: "Amendment to the Constitution Proposed by Initiative Petition to be Submitted Directly to the Electors."

Section 1b: Initiative and referendum to enact laws

When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided, proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. If said proposed law shall be passed by the general assembly, either as petitioned for or in an amended form, it shall be subject to the referendum. If it shall not be passed, or if it shall be passed in an amended form, or if no action shall be taken thereon within four months from the time it is received by the general assembly, it shall be submitted by the secretary of state to the electors for their approval or rejection, if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which supplementary petition must be signed and filed with the secretary of state within ninety days after the proposed law shall have been rejected by the general assembly or after the expiration of such term of four

months, if no action has been taken thereon, or after the law as passed by the general assembly shall have been filed by the governor in the office of the secretary of state. The proposed law shall be submitted at the next regular or general election occurring subsequent to one hundred twenty-five days after the supplementary petition is filed in the form demanded by such supplementary petition, which form shall be either as first petitioned for or with any amendment or amendments which may have been incorporated therein by either branch or by both branches, of the general assembly. If a proposed law so submitted is approved by a majority of the electors voting thereon, it shall be the law and shall go into effect as herein provided in lieu of any amended form of said law which may have been passed by the general assembly, and such amended law passed by the general assembly shall not go into effect until and unless the law proposed by supplementary petition shall have been rejected by the electors. All such initiative petitions, last above described, shall have printed across the top thereof, in case of proposed laws: "Law Proposed by Initiative Petition First to be Submitted to the General Assembly." Ballots shall be so printed as to permit an affirmative or negative vote upon each measure submitted to the electors. Any proposed law or amendment to the constitution submitted to the electors as provided in 1a and 1b, if approved by a majority of the electors voting thereon, shall take effect thirty days after the election at which it was approved and shall be published by the secretary of state. If conflicting proposed laws or conflicting proposed amendments to the constitution shall be approved at the same election by a majority of the total number of votes cast for and against the same, the one receiving the highest number of affirmative votes shall be the law, or in the case of amendments to the constitution shall be the amendment to the constitution. No law proposed by initiative petition and approved by the electors shall be subject to the veto of the governor.

Section 1c: Referendum to challenge laws enacted by General Assembly

The second aforesaid power reserved by the people is designated the referendum, and the signatures of six per centum of the electors shall be required upon a petition to order the submission to the electors of the state for their approval or rejection, of any law, section of any law or any item in any law appropriating money passed by the general assembly. No law passed by the general assembly shall go into effect until ninety days after it shall have been filed by the governor in the office of the secretary of state, except as herein provided. When a petition, signed by six per centum of the electors of the state and verified as herein provided, shall have been filed with the secretary of state within ninety days after any law shall have been filed by the governor in the office of the secretary of state, ordering that such law, section of such law or any item in such law appropriating money be submitted to the electors of the state for their approval or rejection, the secretary of state shall submit to the electors of the state for their approval or rejection such law, section or item, in the manner herein provided, at the next succeeding regular or general election in any year occurring subsequent to one hundred twenty-five days after the filing of such petition, and no such law, section or item shall go into effect until and unless approved by a majority of those voting upon the same. If, however, a referendum petition is filed against any such section or item, the remainder of the law shall not thereby be prevented or delayed from going into effect.

Section 1g: Petition requirements and preparation; submission; ballot language; by Ohio ballot board

Any initiative, supplementary, or referendum petition may be presented in separate parts but each

part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred, or the proposed law or proposed amendment to the constitution. Each signer of any initiative, supplementary, or referendum petition must be an elector of the state and shall place on such petition after his name the date of signing and his place of residence. A signer residing outside of a municipality shall state the county and the rural route number, post office address, or township of his residence. A resident of a municipality shall state the street and number, if any, of his residence and the name of the municipality or post office address. The names of all signers to such petitions shall be written in ink, each signer for himself. To each part of such petition shall be attached the statement of the circulator, as may be required by law, that he witnessed the affixing of every signature. The secretary of state shall determine the sufficiency of the signatures not later than one hundred five days before the election.

The Ohio supreme court shall have original, exclusive jurisdiction over all challenges made to petitions and signatures upon such petitions under this section. Any challenge to a petition or signature on a petition shall be filed not later than ninety-five days before the day of the election. The court shall hear and rule on any challenges made to petitions and signatures not later than eighty-five days before the election. If no ruling determining the petition or signatures to be insufficient is issued at least eighty-five days before the election, the petition and signatures upon such petitions shall be presumed to be in all respects sufficient.

If the petitions or signatures are determined to be insufficient, ten additional days shall be allowed for the filing of additional signatures to such petition. If additional signatures are filed, the secretary of state shall determine the sufficiency of those additional signatures not later than sixty-five days before the election. Any challenge to the additional signatures shall be filed not later than fifty-five days before the day of the election. The court shall hear and rule on any challenges made to the additional signatures not later than forty-five days before the election. If no ruling determining the additional signatures to be insufficient is issued at least forty-five days before the election, the petition and signatures shall be presumed to be in all respects sufficient.

No law or amendment to the constitution submitted to the electors by initiative and supplementary petition and receiving an affirmative majority of the votes cast thereon, shall be held unconstitutional or void on account of the insufficiency of the petitions by which such submission of the same was procured; nor shall the rejection of any law submitted by referendum petition be held invalid for such insufficiency. Upon all initiative, supplementary, and referendum petitions provided for in any of the sections of this article, it shall be necessary to file from each of one-half of the counties of the state, petitions bearing the signatures of not less than one-half of the designated percentage of the electors of such county. A true copy of all laws or proposed laws or proposed amendments to the constitution, together with an argument or explanation, or both, for, and also an argument or explanation, or both, against the same, shall be prepared. The person or persons who prepare the argument or explanation, or both, against any law, section, or item, submitted to the electors by referendum petition, may be named in such petition and the persons who prepare the argument or explanation, or both, for any proposed law or proposed amendment to the constitution may be named in the petition proposing the same. The person or persons who prepare the argument or explanation, or both, for the law, section, or item, submitted to the electors by referendum petition, or against any proposed law submitted by supplementary petition, shall be named by the general assembly, if in session, and if not in session then by the governor. The law,

or proposed law, or proposed amendment to the constitution, together with the arguments and explanations, not exceeding a total of three hundred words for each, and also the arguments and explanations, not exceeding a total of three hundred words against each, shall be published once a week for three consecutive weeks preceding the election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. The secretary of state shall cause to be placed upon the ballots, the ballot language for any such law, or proposed law, or proposed amendment to the constitution, to be submitted. The ballot language shall be prescribed by the Ohio ballot board in the same manner, and subject to the same terms and conditions, as apply to issues submitted by the general assembly pursuant to Section 1 of Article XVI of this constitution. The ballot language shall be so prescribed and the secretary of state shall cause the ballots so to be printed as to permit an affirmative or negative vote upon each law, section of law, or item in a law appropriating money, or proposed law, or proposed amendment to the constitution. The style of all laws submitted by initiative and supplementary petition shall be: "Be it Enacted by the People of the State of Ohio," and of all constitutional amendments: "Be it Resolved by the People of the State of Ohio." The basis upon which the required number of petitioners in any case shall be determined shall be the total number of votes cast for the office of governor at the last preceding election therefor. The foregoing provisions of this section shall be self-executing, except as herein otherwise provided. Laws may be passed to facilitate their operation, but in no way limiting or restricting either such provisions or the powers herein reserved.

Section 15: How bills shall be passed

(A) The general assembly shall enact no law except by bill, and no bill shall be passed without the concurrence of a majority of the members elected to each house. Bills may originate in either house, but may be altered, amended, or rejected in the other.

(B) The style of the laws of this state shall be, "be it enacted by the general assembly of the state of Ohio."

(C) Every bill shall be considered by each house on three different days, unless two-thirds of the members elected to the house in which it is pending suspend this requirement, and every individual consideration of a bill or action suspending the requirement shall be recorded in the journal of the respective house. No bill may be passed until the bill has been reproduced and distributed to members of the house in which it is pending and every amendment been made available upon a member's request.

(D) No bill shall contain more than one subject, which shall be clearly expressed in its title. No law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections amended shall be repealed.

(E) Every bill which has passed both houses of the general assembly shall be signed by the presiding officer of each house to certify that the procedural requirements for passage have been met and shall be presented forthwith to the governor for his approval.

(F) Every joint resolution which has been adopted in both houses of the general assembly shall be signed by the presiding officer of each house to certify that the procedural

requirements for adoption have been met and shall forthwith be filed with the secretary of state.

Ohio Constitution, Article IV

Section 2: Organization and jurisdiction of Supreme Court

...

(B)

(1) The Supreme Court shall have original jurisdiction in the following:

(a) Quo warranto;

(b) Mandamus;

(c) Habeas corpus;

(d) Prohibition;

(e) Procedendo;

(f) In any cause on review as may be necessary to its complete determination;

(g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.

...

Ohio Constitution, Article XVI

Section 1: Constitutional amendment proposed by joint resolution of General Assembly; procedure

Either branch of the General Assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be filed with the secretary of state at least ninety days before the date of the election at which they are to be submitted to the electors, for their approval or rejection. They shall be submitted on a separate ballot without party designation of any kind, at either a special or a general election as the General Assembly may prescribe.

The ballot language for such proposed amendments shall be prescribed by a majority of the Ohio ballot board, consisting of the secretary of state and four other members, who shall be designated

in a manner prescribed by law and not more than two of whom shall be members of the same political party. The ballot language shall properly identify the substance of the proposal to be voted upon. The ballot need not contain the full text nor a condensed text of the proposal. The board shall also prepare an explanation of the proposal, which may include its purpose and effects, and shall certify the ballot language and the explanation to the secretary of state not later than seventy-five days before the election. The ballot language and the explanation shall be available for public inspection in the office of the secretary of state.

The Supreme Court shall have exclusive, original jurisdiction in all cases challenging the adoption or submission of a proposed constitutional amendment to the electors. No such case challenging the ballot language, the explanation, or the actions or procedures of the General Assembly in adopting and submitting a constitutional amendment shall be filed later than sixty-four days before the election. The ballot language shall not be held invalid unless it is such as to mislead, deceive, or defraud the voters.

Unless the General Assembly otherwise provides by law for the preparation of arguments for and, if any, against a proposed amendment, the board may prepare such arguments.

Such proposed amendments, the ballot language, the explanations, and the arguments, if any, shall be published once a week for three consecutive weeks preceding such election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. The General Assembly shall provide by law for other dissemination of information in order to inform the electors concerning proposed amendments. An election on a proposed constitutional amendment submitted by the general assembly shall not be enjoined nor invalidated because the explanation, arguments, or other information is faulty in any way. If the majority of the electors voting on the same shall adopt such amendments the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

Section 3: Question of constitutional convention to be submitted periodically

At the general election to be held in the year one thousand nine hundred and thirty-two, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the constitution[.]" shall be submitted to the electors of the state; and in case a majority of the electors, voting for and against the calling of a convention, shall decide in favor of a convention, the General Assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

Ohio Revised Code, Title 27

Section 2731.04: Application for writ

Application for the writ of mandamus must be by petition, in the name of the state on the relation of the person applying, and verified by affidavit. The court may require notice of it to be given to

the defendant, or grant an order to show cause why it should not be allowed, or allow the writ without notice.

Ohio Revised Code, Title 33

Section 3313.671: Proof of required immunizations – exceptions

(A)

(1) Except as otherwise provided in division (B) of this section, no pupil, at the time of initial entry or at the beginning of each school year, to an elementary or high school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission, that the pupil has been immunized by a method of immunization approved by the department of health pursuant to section 3701.13 of the Revised Code against mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella or is in the process of being immunized.

(2) Except as provided in division (B) of this section, no pupil who begins kindergarten at an elementary school subject to the state board of education's minimum standards shall be permitted to remain in school for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission that the pupil has been immunized by a department of health-approved method of immunization or is in the process of being immunized against both of the following:

(a) During or after the school year beginning in 1999, hepatitis B;

(b) During or after the school year beginning in 2006, chicken pox.

(3) Except as provided in division (B) of this section, during and after the school year beginning in 2016, no pupil who is the age or older than the age at which immunization against meningococcal disease is recommended by the state department of health shall be permitted to remain in a school subject to the state board of education's minimum standards for more than fourteen days unless the pupil presents written evidence satisfactory to the person in charge of admission that the pupil has been immunized by a department of health-approved method of immunization, or is in the process of being immunized, against meningococcal disease.

(4) As used in divisions (A)(1), (2), and (3) of this section, "in the process of being immunized" means the pupil has been immunized against mumps, rubeola, rubella, and chicken pox, and if the pupil has not been immunized against poliomyelitis, diphtheria, pertussis, tetanus, hepatitis B, and meningococcal disease, the pupil has

received at least the first dose of the immunization sequence, and presents written evidence to the pupil's building principal or chief administrative officer of each subsequent dose required to obtain immunization at the intervals prescribed by the director of health. Any student previously admitted under the "in process of being immunized" provision and who has not complied with the immunization intervals prescribed by the director of health shall be excluded from school on the fifteenth day of the following school year. Any student so excluded shall be readmitted upon showing evidence to the student's building principal or chief administrative officer of progress on the director of health's interval schedule.

(B)

(1) A pupil who has had natural rubeola, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against rubeola.

(2) A pupil who has had natural mumps, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against mumps.

(3) A pupil who has had natural chicken pox, and presents a signed statement from the pupil's parent, guardian, or physician to that effect, is not required to be immunized against chicken pox.

(4) A pupil who presents a written statement of the pupil's parent or guardian in which the parent or guardian declines to have the pupil immunized for reasons of conscience, including religious convictions, is not required to be immunized.

(5) A child whose physician certifies in writing that such immunization against any disease is medically contraindicated is not required to be immunized against that disease.

(C) As used in this division, "chicken pox epidemic" means the occurrence of cases of chicken pox in numbers greater than expected in the school's population or for a particular period of time.

Notwithstanding division (B) of this section, a school may deny admission to a pupil otherwise exempted from the chicken pox immunization requirement if the director of the state department of health notifies the school's principal or chief administrative officer that a chicken pox epidemic exists in the school's population. The denial of admission shall cease when the director notifies the principal or officer that the epidemic no longer exists.

The board of education or governing body of each school subject to this section shall adopt a policy that prescribes methods whereby the academic standing of a pupil who is denied

admission during a chicken pox epidemic may be preserved.

(D) Boards of health, legislative authorities of municipal corporations, and boards of township trustees on application of the board of education of the district or proper authority of any school affected by this section, shall provide at the public expense, without delay, the means of immunization against mumps, poliomyelitis, rubeola, rubella, diphtheria, pertussis, tetanus, and hepatitis B to pupils who are not so provided by their parents or guardians.

(E) The department of health shall specify the age at which immunization against meningococcal disease, as required by division (A)(3) of this section, is recommended, and approve a method of immunization against meningococcal disease.

Ohio Revised Code, Title 35

Section 3505.062: Ohio ballot board duties

The Ohio ballot board shall do all of the following:

(A) Examine, within ten days after its receipt, each written initiative petition received from the attorney general under section 3519.01 of the Revised Code to determine whether it contains only one proposed law or constitutional amendment so as to enable the voters to vote on a proposal separately. If the board so determines, it shall certify its approval to the attorney general, who then shall file with the secretary of state in accordance with division (A) of section 3519.01 of the Revised Code a verified copy of the proposed law or constitutional amendment together with its summary and the attorney general's certification of it.

If the board determines that the initiative petition contains more than one proposed law or constitutional amendment, the board shall divide the initiative petition into individual petitions containing only one proposed law or constitutional amendment so as to enable the voters to vote on each proposal separately and certify its approval to the attorney general. If the board so divides an initiative petition and so certifies its approval to the attorney general, the petitioners shall resubmit to the attorney general appropriate summaries for each of the individual petitions arising from the board's division of the initiative petition, and the attorney general then shall review the resubmissions as provided in division (A) of section 3519.01 of the Revised Code.

(B) Prescribe the ballot language for constitutional amendments proposed by the general assembly to be printed on the questions and issues ballot, which language shall properly identify the substance of the proposal to be voted upon;

(C) Prepare an explanation of each constitutional amendment proposed by the general assembly, which explanation may include the purpose and effects of the proposed

amendment;

(D) Certify the ballot language and explanation, if any, to the secretary of state no later than seventy-five days before the election at which the proposed question or issue is to be submitted to the voters;

(E) Prepare, or designate a group of persons to prepare, arguments in support of or in opposition to a constitutional amendment proposed by a resolution of the general assembly, a constitutional amendment or state law proposed by initiative petition, or a state law, or section or item of state law, subject to a referendum petition, if the persons otherwise responsible for the preparation of those arguments fail to timely prepare and file them;

(F) Direct the means by which the secretary of state shall disseminate information concerning proposed constitutional amendments, proposed laws, and referenda to the voters;

(G) Direct the secretary of state to contract for the publication in a newspaper of general circulation in each county in the state of the ballot language, explanations, and arguments regarding each of the following:

(1) A constitutional amendment or law proposed by initiative petition under Section 1g of Article II of the Ohio Constitution;

(2) A law, section, or item of law submitted to the electors by referendum petition under Section 1g of Article II of the Ohio Constitution;

(3) A constitutional amendment submitted to the electors by the general assembly under Section 1 of Article XVI of the Ohio Constitution.

Section 3519.01: Initiative and referendum petitions

(A) Only one proposal of law or constitutional amendment to be proposed by initiative petition shall be contained in an initiative petition to enable the voters to vote on that proposal separately. A petition shall include the text of any existing statute or constitutional provision that would be amended or repealed if the proposed law or constitutional amendment is adopted.

Whoever seeks to propose a law or constitutional amendment by initiative petition shall, by a written petition signed by one thousand qualified electors, submit the proposed law or constitutional amendment and a summary of it to the attorney general for examination. Within ten days after the receipt of the written petition and the summary of it, the attorney general shall conduct an examination of the summary. If, in the opinion of the attorney general, the summary is a fair and truthful statement of the proposed law or constitutional amendment, the attorney general shall so certify and then forward the submitted petition to the Ohio ballot board for its approval under division (A) of section 3505.062 of the Revised Code. If the Ohio ballot board returns the submitted petition to the attorney general with

its certification as described in that division, the attorney general shall then file with the secretary of state a verified copy of the proposed law or constitutional amendment together with its summary and the attorney general's certification.

Whenever the Ohio ballot board divides an initiative petition into individual petitions containing only proposed law or constitutional amendment under division (A) of section 3505.062 of the Revised Code resulting in the need for the petitioners to resubmit to the attorney general appropriate summaries for each of the individual petitions arising from the board's division of the initiative petition, the attorney general shall review the resubmitted summaries, within ten days after their receipt, to determine if they are a fair and truthful statement of the respective proposed laws or constitutional amendments and, if so, certify them. These resubmissions shall contain no new explanations or arguments. Then, the attorney general shall file with the secretary of state a verified copy of each of the proposed laws or constitutional amendments together with their respective summaries and the attorney general's certification of each.

(B)

(1) Whoever seeks to file a referendum petition against any law, section, or item in any law shall, by a written petition signed by one thousand qualified electors, submit the measure to be referred and a summary of it to the secretary of state and, on the same day or within one business day before or after that day, submit a copy of the petition, measure, and summary to the attorney general.

(2) Not later than ten business days after receiving the petition, measure, and summary, the secretary of state shall do both of the following:

(a) Have the validity of the signatures on the petition verified;

(b) After comparing the text of the measure to be referred with the copy of the enrolled act on file in the secretary of state's office containing the law, section, or item of law, determine whether the text is correct and, if it is, so certify.

(3) Not later than ten business days after receiving a copy of the petition, measure, and summary, the attorney general shall examine the summary and, if in the attorney general's opinion, the summary is a fair and truthful statement of the measure to be referred, so certify.

(C) Any person who is aggrieved by a certification decision under division (A) or (B) of this section may challenge the certification or failure to certify of the attorney general in the supreme court, which shall have exclusive, original jurisdiction in all challenges of those certification decisions.

Ohio Revised Code, Title 47

Section 4741.22: Disciplinary actions

(A) The state veterinary medical licensing board may, except as provided in division (B) of this section, refuse to issue or renew a license, limited license, registration, or temporary permit to or of any applicant who, and may issue a reprimand to, suspend or revoke the license, limited license, registration, or the temporary permit of, or impose a civil penalty pursuant to this section upon any person holding a license, limited license, or temporary permit to practice veterinary medicine or any person registered as a registered veterinary technician who:

- (1) In the conduct of the person's practice does not conform to the rules of the board or the standards of the profession governing proper, humane, sanitary, and hygienic methods to be used in the care and treatment of animals;
- (2) Uses fraud, misrepresentation, or deception in any application or examination for licensure, or any other documentation created in the course of practicing veterinary medicine;
- (3) Is found to be physically or psychologically addicted to alcohol or an illegal or controlled substance, as defined in section 3719.01 of the Revised Code, to such a degree as to render the person unfit to practice veterinary medicine;
- (4) Directly or indirectly employs or lends the person's services to a solicitor for the purpose of obtaining patients;
- (5) Obtains a fee on the assurance that an incurable disease can be cured;
- (6) Advertises in a manner that violates section 4741.21 of the Revised Code;
- (7) Divides fees or charges or has any arrangement to share fees or charges with any other person, except on the basis of services performed;
- (8) Sells any biologic containing living, dead, or sensitized organisms or products of those organisms, except in a manner that the board by rule has prescribed;
- (9) Is convicted of or pleads guilty to any felony or crime involving illegal or prescription drugs, or fails to report to the board within sixty days of the individual's conviction of, plea of guilty to, or treatment in lieu of conviction involving a felony, misdemeanor of the first degree, or offense involving illegal or prescription drugs;
- (10) Is convicted of any violation of section 959.13 of the Revised Code;
- (11) Swears falsely in any affidavit required to be made by the person in the course of the practice of veterinary medicine;

- (12) Fails to report promptly to the proper official any known reportable disease;
- (13) Fails to report promptly vaccinations or the results of tests when required to do so by law or rule;
- (14) Has been adjudicated incompetent for the purpose of holding the license or permit by a court, as provided in Chapter 2111. of the Revised Code, and has not been restored to legal capacity for that purpose;
- (15) Permits a person who is not a licensed veterinarian, a veterinary student, or a registered veterinary technician to engage in work or perform duties in violation of this chapter;
- (16) Is guilty of gross incompetence or gross negligence;
- (17) Has had a license to practice veterinary medicine or a license, registration, or certificate to engage in activities as a registered veterinary technician revoked, suspended, or acted against by disciplinary action by an agency similar to this board of another state, territory, or country or the District of Columbia;
- (18) Is or has practiced with a revoked, suspended, inactive, expired, or terminated license or registration;
- (19) Represents self as a specialist unless certified as a specialist by the board;
- (20) In the person's capacity as a veterinarian or registered veterinary technician makes or files a report, health certificate, vaccination certificate, or other document that the person knows is false or negligently or intentionally fails to file a report or record required by any applicable state or federal law;
- (21) Fails to use reasonable care in the administration of drugs or acceptable scientific methods in the selection of those drugs or other modalities for treatment of a disease or in conduct of surgery;
- (22) Makes available a dangerous drug, as defined in section 4729.01 of the Revised Code, to any person other than for the specific treatment of an animal patient;
- (23) Refuses to permit a board investigator or the board's designee to inspect the person's business premises during regular business hours, except as provided in division (A) of section 4741.26 of the Revised Code;
- (24) Violates any order of the board or fails to comply with a subpoena of the board;
- (25) Fails to maintain medical records as required by rule of the board;
- (26) Engages in cruelty to animals;

(27) Uses, prescribes, or sells any veterinary prescription drug or biologic, or prescribes any extra-label use of any over-the-counter drug or dangerous drug in the absence of a valid veterinary-client-patient relationship.

(B) The board shall not refuse to issue a license, limited license, registration, or temporary permit to an applicant because of a conviction of or plea of guilty to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(C) Except as provided in division (D) of this section, before the board may revoke, deny, refuse to renew, or suspend a license, registration, or temporary permit or otherwise discipline the holder of a license, registration, or temporary permit, the executive director shall file written charges with the board. The board shall conduct a hearing on the charges as provided in Chapter 119. of the Revised Code.

(D)

(1) Except as otherwise provided in division (D)(2) of this section, if the board, after a hearing conducted pursuant to Chapter 119. of the Revised Code, revokes, refuses to renew, or suspends a license, registration, or temporary permit for a violation of this section, section 4741.23, division (C) or (D) of section 4741.19, or division (B), (C), or (D) of section 4741.21 of the Revised Code, the board may impose a civil penalty upon the holder of the license, permit, or registration of not less than one hundred dollars or more than one thousand dollars.

(2) Except as provided in division (D) of this section, the board shall impose a civil penalty for a violation of division (B)(1) of section 959.07 or division (C) of section 959.09 of the Revised Code by a licensed veterinarian as follows:

(a) One hundred dollars for a second violation of division (B)(1) of section 959.07 of the Revised Code or a first violation of division (C) of section 959.09 of the Revised Code;

(b) Five hundred dollars for any subsequent violation of division (B)(1) of section 959.07 or division (C) of section 959.09 of the Revised Code.

(3) In addition to the civil penalty and any other penalties imposed pursuant to this chapter, the board may assess any holder of a license, permit, or registration the costs of the hearing conducted under this section if the board determines that the holder has violated any provision for which the board may impose a civil penalty under this section.

(E) For a first violation of division (B)(1) of section 959.07 of the Revised Code by a licensed veterinarian, the board shall issue a confidential written warning to the licensed veterinarian and shall not take any other disciplinary action under this section. The board shall include in the warning an explanation of the violation and the reporting requirement

specified under section 959.07 of the Revised Code.

(F) The executive director may recommend that the board suspend an individual's certificate of license without a prior hearing if the executive director determines both of the following:

(1) There is clear and convincing evidence that division (A)(3), (9), (14), (22), or (26) of this section applies to the individual.

(2) The individual's continued practice presents a danger of immediate and serious harm to the public.

The executive director shall prepare written allegations for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than four of its members, may suspend the certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the 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. If the individual subject to the suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be not later than 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.

A suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board under this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order not later than ninety days after completion of its hearing. Failure to issue the order within ninety days results in dissolution of the suspension order, but does not invalidate any subsequent, final adjudicative order.

[(G)] A license or registration issued to an individual under this chapter is automatically suspended upon that individual's conviction of or plea of guilty to or upon a judicial finding with regard to any of the following: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. The suspension shall remain in effect from the date of the conviction, plea, or finding until an adjudication is held under Chapter 119. of the Revised Code. If the board has knowledge that an automatic suspension has occurred, it shall notify the individual subject to the suspension. If the individual is notified and either fails to request an adjudication within the time periods established by Chapter 119. of the Revised Code or fails to participate in the adjudication, the board shall enter a final order permanently revoking the individual's license or registration.

Ohio Revised Code, Title 51

Section 5104.014: Medical statement of immunization

(A) As used in this section:

(1) “Child” includes both of the following:

(a) An infant, toddler, or preschool age child;

(b) A school-age child who is not enrolled in a public or nonpublic school but is enrolled in a child day-care center, type A family day-care home, or licensed type B family day-care home or receives child care from a certified in-home aide.

(2) “In the process of being immunized” means having received at least the first dose of an immunization sequence and complying with the immunization intervals or catch-up schedule prescribed by the director of health.

(B) Except as provided in division (C) of this section, not later than thirty days after enrollment in a child day-care center, type A family day-care home, or licensed type B family day-care home and every thirteen months thereafter while enrolled in the center or home and not later than thirty days after beginning to receive child care from a certified in-home aide and every thirteen months thereafter while continuing to receive child care from the aide, each child’s caretaker parent shall provide to the center, home, or in-home aide a medical statement, as described in division (D) of this section, indicating that the child has been immunized against or is in the process of being immunized against all of the following diseases:

(1) Chicken pox;

(2) Diphtheria;

(3) Haemophilus influenzae type b;

(4) Hepatitis A;

(5) Hepatitis B;

(6) Influenza;

(7) Measles;

(8) Mumps;

(9) Pertussis;

(10) Pneumococcal disease;

(11) Poliomyelitis;

(12) Rotavirus;

(13) Rubella;

(14) Tetanus.

(C)

(1) A child is not required to be immunized against a disease specified in division (B) of this section if any of the following is the case:

(a) Immunization against the disease is medically contraindicated for the child;

(b) The child's parent or guardian has declined to have the child immunized against the disease for reasons of conscience, including religious convictions;

(c) Immunization against the disease is not medically appropriate for the child's age.

(2) In the case of influenza, a child is not required to be immunized against the disease if the seasonal vaccine is not available.

(D)

(1) The medical statement shall include all of the following information:

(a) The dates that a child received immunizations against each of the diseases specified in division (B) of this section;

(b) Whether a child is subject to any of the exceptions specified in division (C) of this section.

(2) The medical statement shall include a component where a parent or guardian may indicate that the parent or guardian has declined to have the child immunized.