

Ohio

Are mandatory arbitration provisions recognized in your state? If so, are there any limitations to its enforcement?

Yes, Ohio generally recognizes mandatory arbitration provisions:

in any written contract, except as provided in division (B) of this section, to settle by arbitration a controversy that subsequently arises out of the contract, or out of the refusal to perform the whole or any part of the contract, or any agreement in writing between two or more persons to submit to arbitration any controversy existing between them at the time of the agreement to submit, or arising after the agreement to submit, from a relationship then existing between them or that they simultaneously create, shall be valid, irrevocable, and enforceable, except upon grounds that exist at law or in equity for the revocation of any contract.ⁱ

However, agreements to arbitrate contained in a written contract “do not apply to controversies involving the title to or the possession of real estate” with the following exceptions:

Controversies involving the amount of increased or decreased valuation of the property at the termination of certain periods, as provided in a lease;

Controversies involving the amount of rentals due under any lease;

Controversies involving the determination of the value of improvements at the termination of any lease;

Controversies involving the appraisal of property values in connection with making or renewing any lease;

Controversies involving the boundaries of real estate.ⁱⁱ

In Ohio, mandatory arbitration provisions for the resolution of medical claims are governed by a specific set of statutes.ⁱⁱⁱ Generally,

a written contract between a patient and a hospital or healthcare provider to settle by binding arbitration any dispute or controversy arising out of the diagnosis, treatment, or care of the patient rendered by a hospital or healthcare provider, that is entered into prior to the diagnosis, treatment, or care of the patient is valid, irrevocable, and enforceable once the contract is signed by all parties.^{iv}

To be enforceable, an agreement to arbitrate medical claims must satisfy the following conditions:

The agreement shall provide that the care, diagnosis, or treatment will be provided whether or not the patient signs the agreement to arbitrate;

The agreement shall provide that the patient, or the patient's spouse, or the personal representative of the patient's estate in the event of the patient's death or incapacity, shall have a right to withdraw the patient's consent to arbitrate the patient's claim by notifying the healthcare provider or hospital in writing within thirty days after the patient's signing of the agreement. Nothing in this division shall be construed to mean that the spouse of a competent patient can withdraw over the objection of the patient the consent of the patient to arbitrate;

The agreement shall provide that the decision whether or not to sign the agreement is solely a matter for the patient's determination without any influence;

The agreement shall, if appropriate, provide that its terms constitute a waiver of any right to a trial in court, or a waiver of any right to a trial by jury;

The agreement shall provide that the arbitration expenses shall be divided equally between the parties to the agreement;

Any arbitration panel shall consist of three persons, no more than one of whom shall be a physician or the representative of a hospital;

The arbitration agreement shall be separate from any other agreement, consent, or document;

The agreement shall not be submitted to a patient for approval when the patient's condition prevents the patient from making a rational decision whether or not to agree;

Filing of a medical, dental, chiropractic, or optometric claim within the thirty days provided for withdrawal of a patient from the arbitration agreement shall be deemed a withdrawal from the agreement;

The agreement shall contain a separately stated notice that clearly informs the patient of the patient's rights under division (B) of this section.^v

What is your state's law, if any, regarding gift cards, subscription services and loyalty programs?

I. Gift Cards

Ohio's Consumer Protection law contains a statute specific to the sale of gift cards. The following actions relative to the sale of a gift card are prohibited

Sale of a gift card that's contains an expiration date less than 2 years after the date the gift card is issued;

Sale of a gift card that imposes service fess within 2 years if the sale of the card "that have the effect of reducing the total amount for which the holder of the gift card may redeem the gift card."^{vi}

These restrictions do not apply to gift cards

1) that is distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or anything of value being given in exchange for the gift card by the consumer;

- 2) that is sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes, if the expiration date on that gift card is not more than thirty days after the date of sale;
- 3) that is sold by a nonprofit or charitable organization for fundraising purposes;
- 4) that an employer gives to an employee if use of the gift card is limited to the employer's business establishment, which may include a group of merchants that are affiliated with that business establishment;
- 5) issued in accordance with section 1533.131 of the Revised Code that may be used to obtain hunting and fishing licenses, fur taker, special deer, and special wild turkey permits, and wetlands habitat stamps;
- 6) that is usable with multiple, unaffiliated sellers of goods or services; or
- 7) that an employer issues to an employee in recognition of services performed by the employee.^{vii}

Whoever imposes service charges in violation of the gift card code is liable to the holder for any amount that the redemption value of the gift card was reduced, any court costs incurred, and reasonable attorney's fees.^{viii}

Hunting and fishing licenses may be purchased by gift certificates sold by the Chief of the Division of Wildlife.^{ix}

Chiropractic physicians are barred from offering cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or an inducement to enter into or continue care.^x

II. Subscription Services/Loyalty Programs

We could not locate any state statutes, case law, or regulations on subscription services or loyalty programs.

ⁱ OH ST § 2711.01(A).

ⁱⁱ OH ST § 2711.01(B)(a)–(e).

ⁱⁱⁱ See generally OH ST § 2711.21 *et seq.*

^{iv} OH ST § 2711.22(A).

^v OH ST § 2711.23(A)–(J).

^{vi} OH ST § 1349.61(A)(1)–(2).

^{vii} *Id.* at § 1349.61(C)(1)–(7).

^{viii} *Id.* at § 1349.61(D).

^{ix} R.C. § 1533.131.

^x OAC 4734-9-07.