

Ohio Matters

An Official Publication of *The Ohio Chamber of Commerce*

By James Investment Research

JANUARY / FEBRUARY 2019

GET INFORMED.

1

Economic outlook 2019

Ohio's prosperity plan

Legislature welcomes 30 new faces

Ohio Excels to increase voice of business in education

SHARE SUCCESS.

4

Workers' compensation lump sum settlements

Legal Aid: Good for business

Employee record retention

Anticipating and accommodating religious observances

Third quarter Prosperity Pulse survey results

STAY CONNECTED.

7

Ohio Chamber contacts

New members

Member news

New year, new faces, new goals

ECONOMIC OUTLOOK 2019

For more than 10 years, Ohio Chamber member James Investment Research has presented its economic outlook to the Ohio Chamber's Board of Directors. This is their forecast for 2019.

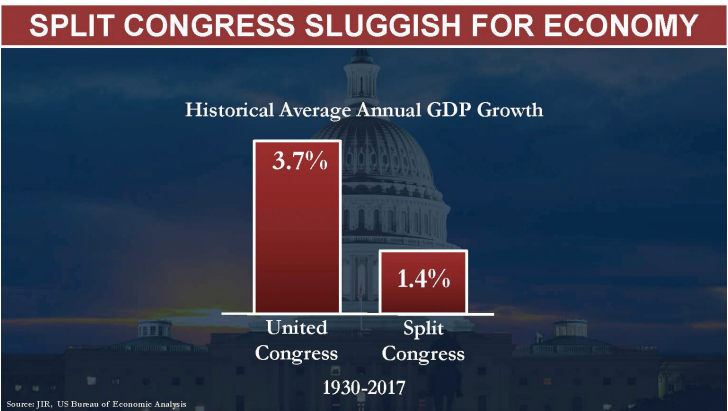
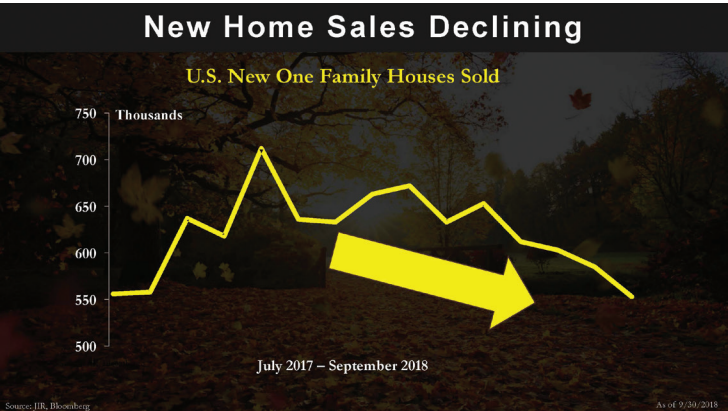
ECONOMY

Last year, our forecast for the economy in 2018 was "[W]e have excellent momentum in the economy, our research points to few red flags and we have tax cuts and regulatory reform giving businesses more confidence in the future." While we are not as optimistic for the economy in 2019, we hope our forecast is as accurate as it was for 2018.

We think the economy will slow in 2019. We are starting to see some key industries like the automotive and housing sectors decelerate, and we expect more sectors to follow. Automobile sales and new home sales peaked in 2017 and have been heading lower. New home sales are down over 20 percent from the high. *{See New Home Sales Declining chart}*

As interest rates have risen, these two sectors have felt the impact. This is troubling because these two industries have a multiplier effect on the economy. Buying a new car or a new home is a signal that consumers are confident about their future. The National Association for Home Builders estimates three jobs are created for every new home built.

We do not see a recession on the horizon, as two key economic tripwires have not signaled yet. One of those is the yield curve, and while it is close to inverting (short-term interest rates higher than long-term interest rates), it has not inverted yet. The other indicator is jobless claims. While jobless claims have been rising, we have not seen a pronounced new trend toward more joblessness.



Politics has played a role in the economy over the past year, and we expect it to continue to be a source of volatility. We went back to 1930 and looked at GDP growth when Congress is united or divided. When Congress was united — the House and Senate controlled by the same party — GDP growth was around 3.7 percent. However, when Congress was divided, GDP growth was less than half, only 1.4 percent. *{See Split Congress Sluggish for Economy chart}*

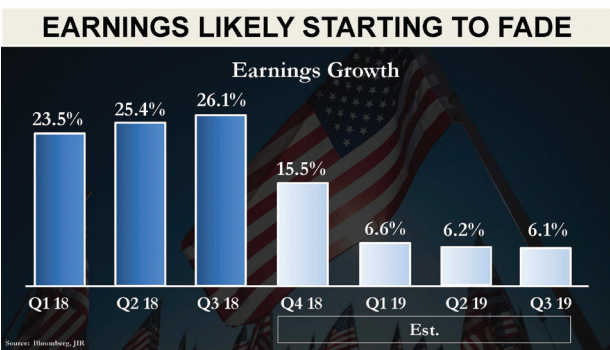
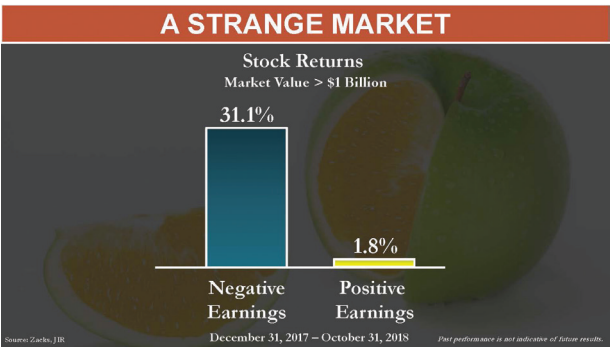
STOCKS

2018 was truly a strange year in the stock market. Stocks with negative earnings were up 31 percent, while

stocks with positive earnings were up 2 percent through the end of October. This is not sustainable. Buying stocks with earnings has always been a pillar of our selection approach, and we believe stocks with earnings should do well again in 2019. *{See A Strange Market chart}*

Last year we said, "Heading into 2018, we find stocks expensively priced by many measures. For example, Shiller's CAPE, Tobin's Q and Buffet's Market Value-to-GDP ratios are quite frothy by historical standards." Unfortunately, this is still the case. We find valuations are still high, as evidenced by elevated price-to-earnings ratios and low dividend yields. *{See Valuations Have Not Hit Bottom chart}*

Another area we warned about last year was e-commerce stocks. Their price runup had exhibited similar patterns with other modern asset bubbles. Additionally, their price-to-sales ratios were approximately 25 percent higher than the typical stock. The FAANGs (Facebook, Amazon, Apple, Netflix and Google) had a good start to the year, but they all have fallen by over 20 percent, entering their own bear market in the fourth quarter of 2018.



We expect S&P 500 earnings growth to decline in 2019. Earnings growth of over 20 percent in the first three quarters of 2018 was fueled by tax cuts and strong economic growth. Even so, the stock market had two 10 percent declines during 2018 and has barely achieved a positive return through mid-December. If the stock market cannot rally when stocks have had that kind of tailwind at their back, why should we expect great returns in 2019? *{Earnings Likely Starting To Fade chart}*

Our recommendations for stock investors are to hold below-average equity levels. Further, investors are advised to concentrate on bargain securities in the noncyclical and utilities sectors. Bargain securities typically are characterized by better relative value, profitability and price appreciation. We anticipate value-oriented stocks will regain the leadership role from speculative securities. In the past, we have seen such leadership changes last for years.

James Investment Research Inc. is a member of the Ohio Chamber of Commerce. Reach it at (937) 426-7640. 📞



You voiced your concerns.

We listened.

*The employer opioid toolkit
was developed to help you.*

We're All for Ohio.

Ohio's employers are asking what they should do about the opioid crisis in their own workplaces. The Ohio Chamber of Commerce convened a task force to explore the options. One task force recommendation was to arm employers with a toolkit of resources to help them be better prepared to prevent and respond to the problem.

With the help and expertise of member company Working Partners®, and financial support from member company Anthem, we have developed *A Dose of Reality for Employers*, an employer opioid toolkit containing several resources available free to any company doing business in Ohio.

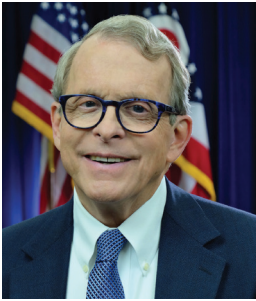
To access the toolkit, go to www.ohiochamber.com/opioid-toolkit.



By Gov. Mike DeWine

OHIO’S PROSPERITY PLAN

Growing up in a family that owned a small business, I know about the hard work it takes to be successful and the artificial barriers that can stifle growth. My grandmother ran the office at our family business, and to this day, I remember her frustrations with lawmakers at the Statehouse or in Washington, D.C.



Those experiences helped shape my view that sometimes it’s most helpful for government to stay out of the way. However, I also believe that government and private industry can partner to directly impact business outcomes and solve pressing public policy issues.

Those principles are the foundation for the Ohio’s Prosperity Plan I introduced while running for governor last year.

As we take office, Jon Husted and I look forward to building on the progress Ohio has made over the past eight years. In 2010, Ohio was coming out of a recession after which unemployment spiked and the state’s finances were in bad shape, with less than a dollar in the Rainy Day Fund. Under Republican leadership, we

brought back hundreds of thousands of private-sector jobs and put the state on solid financial footing.

But it’s our mission to bring the state’s successes up to the next level. We want all Ohioans to have the opportunity to share in the state’s prosperity and live up to their God-given potential.

Ohio’s Prosperity Plan will help us get there. By eliminating burdensome regulations, igniting innovation, research and private investment, and training more Ohioans to fill needed jobs, we can drive Ohio forward to be the destination for workers and employers to thrive.

ELIMINATING BURDENSOME REGULATIONS TO ALLOW BUSINESSES TO THRIVE

Ohio has made great strides toward streamlining regulations, but we need to go a step further to make sure Ohio is the top destination for new opportunities. The Ohio Prosperity Plan encourages job creation by suspending the implementation of any regulation that impedes job creation except those necessary for health and safety.

To build on the momentum created by this effort, we can expand the Common Sense Initiative. This initiative was intended to review the state’s regulatory environment and eliminate excessive or duplicative rules and

regulations. The next step is to expand the program by gaining input and gathering recommendations from all Ohioans about barriers to job growth.

IGNITE INVESTMENT, INNOVATION AND RESEARCH

Next, Ohio’s Prosperity Plan calls for the creation of opportunity zones in economically distressed areas in order to attract investment. Targeted capital will help generate innovative opportunities for thousands of workers who may have limited career options or who have left the job market entirely.

Besides creating new opportunities for Ohioans, our plan aims to attract even more innovators to Ohio. We already have world-renowned research institutions in the state, and the Ohio Prosperity Plan looks to incentivize commercial application of that research by giving researchers ownership rights to the intellectual property. By retaining and recruiting top talent, we will generate new prospects for industry leaders of today and tomorrow.

TRAIN AND ATTRACT MORE WORKERS TO STAY IN OHIO

Ohioans are diligent, resourceful and dependable, making them the best workers in the nation. The Ohio Prosperity Plan will secure that reputation by preparing more Ohioans to fill in-demand jobs. By partnering

with the business community to create stronger regional partnerships among education providers, local businesses and community leaders, we can ensure that prospective employees receive training for skills they actually need. In addition, creating new affiliations among companies, tech centers and community colleges can help connect employers, training and workers in a more streamlined process to fill job openings in in-demand fields.

FIRST STEPS

These bold initiatives are just the first steps as we begin Ohio’s next chapter. We can’t do this alone; we need the help and input from members of the Ohio Chamber of Commerce to make these ideas a reality. As Jon Husted and I take office, we pledge to be an open administration. We want to hear from you about what works and what doesn’t. Making Ohio the best place to start, expand, or maintain a business will happen if we partner together to move Ohio forward.

Just like my family saw opportunity when it began in the seed business all of those years ago, I want the nation to look to Ohio as the place for opportunity. I’m an optimist. When I look at the seal of our great state, I see a sun rising. That sun represents hope, hope for a future of unlimited possibilities and unlimited opportunities for all Ohioans. 🌄

LEGISLATURE TO WELCOME 30 NEW FACES FOR 133RD GENERAL ASSEMBLY

Earlier this month, 132 legislators were sworn in to the Ohio General Assembly. Of those 132, 30 (23 percent) did not serve in the 132nd General Assembly. This number does not include current elected officials who won election to a new chamber or those who were previously appointed. The Ohio House welcomed 28 new faces to its ranks with the partisan makeup of 13 Republicans and 15 Democrats. The Senate, on the other hand, is welcoming one new Republican and one new Democrat.

The backgrounds of these 30 new members of the General Assembly are diverse. Their collective experiences will provide value to the legislative body as they deliberate legislation impacting all Ohioans.

Here are a few profiles of new members.

- **Rep. Beth Liston (D-Dublin)** joins the Ohio General Assembly as one of two doctors (Sen. Stephen Huffman being the other). Liston is a pediatric internist at The Ohio State University Wexner Medical Center. Her campaign website states that, as a doctor and medical professor, she works tirelessly to teach students, community members, physicians and legislators about the health impacts of policy. She knows we need experts working together at the statehouse to keep Ohio’s families healthy.
- **Rep. Jon Cross (R-Kenton)** served as a chamber of commerce executive in Hardin County before his election to the Ohio House. He is no stranger to the mission of business community advocacy and the Ohio Chamber of Commerce from his time in that role.
- **Rep. Tracy Richardson (R-Marysville)** is a graduate of West Point Academy and deployed in Operation Desert Shield/Desert Storm, earning a Bronze Star. She previously served for nine years on the Marysville City Council. Richardson’s additional experience includes years as a corporate human resources professional for a *Fortune* 500 company and as a Leadership Professor for ROTC at both Capital University and Ohio Wesleyan University. She is presently assigned in the U.S. Army Reserves as a Military Academy Liaison Officer for the U.S. Military Academy Admissions Department.
- **Sen. Tina Maharath (D-Whitehall)** sent shockwaves through Ohio political circles when she defeated Rep. Anne Gonzales (R-Westerville) in the open seat contest for the Third Senate District. She defeated Anne Gonzales by 706 votes while having upward of \$1 million spent against her. Maharath becomes the first Laotian-American state senator elected in Ohio. She was most recently a financial analyst for JP Morgan and previously held various positions as a political activist in Central Ohio.
- **Sen. Michael Rulli (R-Salem)** may have equally shocked a lot of folks when he picked up former Sen. Joe Schiavoni’s seat in the Mahoning Valley. He was formerly Leetonia School Board president and serves as director of operations for the 100-year-old Rulli Bros. Markets, a popular chain of grocery stores in the Mahoning Valley. 🌄

NEW ADDITIONS TO THE OHIO GENERAL ASSEMBLY

District	Name	Party	Hometown
HD 6	Phil Robinson	Democrat	Solon
HD 10	Terrence Upchurch	Democrat	Cleveland
HD 12	Juanita Brent	Democrat	Cleveland
HD 15	Jeff Crossman	Democrat	Parma
HD 19	Mary Lightbody	Democrat	Westerville
HD 21	Beth Liston	Democrat	Dublin
HD 24	Allison Russo	Democrat	Upper Arlington
HD 26	Erica Crawley	Democrat	Columbus
HD 28	Jessica Miranda	Democrat	Cincinnati
HD 33	Sedrick Denson	Democrat	Cincinnati
HD 37	Casey Weinstein	Democrat	Hudson
HD 38	Bill Roemer	Republican	Richfield
HD 40	Phil Plummer	Republican	Dayton
HD 44	Paula Hicks-Hudson	Democrat	Toledo
HD 45	Lisa Sobecki	Democrat	Toledo
HD 50	Reggie Stolfus	Republican	Minerva
HD 51	Sara Carruthers	Republican	Hamilton
HD 56	Joe Miller	Democrat	Amherst
HD 59	Don Manning	Republican	New Middletown
HD 61	Jamie Callendar	Republican	Concord
HD 75	Randi Clites	Democrat	Ravenna
HD 80	Jena Powell	Republican	Arcanum
HD 83	Jon Cross	Republican	Kenton
HD 84	Susan Manchester	Republican	Lakeview
HD 86	Tracy Richardson	Republican	Marysville
HD 90	Brian Baldridge	Republican	Winchester
HD 95	Don Jones	Republican	Freeport
HD 98	Brett Hillyer	Republican	Uhrichsville
SD 3	Tina Maharath	Democrat	Westerville
SD 33	Michael Rulli	Republican	Salem

By Lisa Gray, President, Ohio Excels

NEW NONPROFIT ‘OHIO EXCELS’ TO INCREASE THE VOICE OF BUSINESS IN EDUCATION

As Ohio’s economy continues to grow and change, businesses are looking for more skilled workers. Employers are increasingly concerned about the lack of academic preparedness and job readiness they are seeing in Ohio’s workforce.

Research shows that by 2025, 65 percent of Ohioans will need some type of high-quality credential or degree beyond high school; today, only 44 percent meet this benchmark. To close this gap and reach the state’s goal of 65 percent by 2025, state policymakers and business leaders must increase their focus on how the education system prepares students for life after school.

That’s exactly what Ohio Excels intends to do.

Ohio Excels is a new nonpartisan coalition of business leaders committed to improving education for every Ohio student. We seek to bring the unique voice of the business community to state education policy discussions in order to improve student performance. We believe that improving the quality of education will give students a better chance to



succeed and help Ohio businesses grow and innovate, fueling a robust state economy.

The organization views education issues through a set of principles. First, students must be at the center of all policies, and there must always be an expectation of academic excellence, as all students deserve the opportunity to develop the skills and knowledge they need to succeed. Often forgotten after a law passes, it is critical that Ohio strengthen implementation. The state should support the implementation efforts of educators and the comprehensive needs of students by better coordinating and maximizing state investments. Finally, Ohio Excels believes that the state has to honestly report student performance, build on successes and ensure that all students have access to a quality public school of their choice.

Ohio Excels’ work focuses on students of all ages, in early childhood, K-12

and higher education. For preschool students, we support increasing access to high-quality programs for disadvantaged students. Furthermore, the state should continue to hold early childhood programs to a high standard of quality.

“A strong start to schooling will help students succeed later in life, help close achievement gaps and ultimately save the state money in the long run,” says Kevin Duff, director of Policy and Research for Ohio Excels.

For elementary and secondary schools, Ohio Excels wants families and communities to have the information they need to evaluate and support student and school performance. This means pushing for honest and clear reporting from the state through Ohio’s school report cards. Students must also graduate high school ready to succeed in college or the workforce. We have been leading the fight to ensure that the state has meaningful and appropriate graduation requirements, as it’s not doing students, colleges or employers any favors by letting them graduate unprepared.

Ohio Excels will also work to increase student access and support to post-secondary education, including additional need-based aid and programs to support students’ non-academic needs. The organization will also promote closer relationships among high schools, higher education and businesses, which could result in more internships and apprenticeships for students and a stronger recruiting pipeline for employers. The business voice is critical for state policymakers to hear on education issues, and only by working together can we reach the state’s attainment goal by 2025.

Ohio Excels is planning a series of engagement opportunities for businesses and policymakers in 2019. The Ohio Chamber will notify members when plans are finalized.

We want Ohio Excels to be a resource for education policy issues and any questions business leaders may have.

For more information about Ohio Excels, visit www.OhioExcels.org or email info@OhioExcels.org.

WHAT IS A WORKERS’ COMPENSATION LUMP SUM SETTLEMENT?

Provided by CareWorksComp

A lump sum settlement (LSS) is an agreement among the employer, injured worker and Ohio Bureau of Workers’ Compensation (BWC) for a lump sum payment to settle one or more workers’ compensation claims.

The negotiated settlement amount is paid by BWC to the injured worker in exchange for closure of the claim, or a portion of the claim, as defined by the agreement. The written LSS agreement specifies the terms of the settlement and is the final resolution of all medical, compensation and liability claims, whether known or unknown. BWC will consider if the settlement is fair to all parties and must approve all settlements.

Numerous issues should be considered before settling a claim. Is the injured worker still employed, working, able to work or disabled? Will there be a need for future medical

costs? Is there a claim reserve still active in the employer’s experience? Will the settlement create a positive financial outcome for the employer?

Any party involved can submit a settlement application called a “Settlement Agreement and Application for Approval of Settlement Agreement” (C-240). Managed Care Organizations are not permitted to be a party to the settlement, nor can they initiate the settlement or advise the injured worker or employer on settlement issues. The injured worker may or may not use legal counsel to represent him or her with the settlement process and negotiations, and the employer can choose to use legal counsel or, as in most cases, have its Third-Party Administrator (TPA) help with settlement negotiations.

Once BWC evaluates the C-240 and all parties agree to the settlement



amount, BWC will send an approval letter to all parties. The approval letter begins a 30-day waiting period, during which time any party can reject the agreement. Once the 30-day period expires, BWC will pay the settlement to the injured worker.

Settlements can financially benefit the injured worker, BWC and the employer. An LSS pays a benefit to the injured worker and helps BWC

reduce reserves and other associated administrative costs and is a very effective claim management strategy used to help employers lower their premiums and qualify for group rating programs. While an LSS does not remove a claim from an employer’s experience, it does preclude additional claim costs and removes the claim’s reserve costs. It is also important to note that, even though the settlement is paid by BWC, the fixed settlement amount is added to the employer’s claim experience and will be used in determining an employer’s rates.

Employers can face many issues when considering an LSS, and CareWorksComp recommends that they consult with their TPA on all settlement issues.

CareWorksComp can be reached at (800) 837-3200.

2019 Seminars

Presented by the Manufacturers’ Education Council and the Ohio Chamber of Commerce

28TH ANNUAL OHIO TAX CONFERENCE

Tuesday, Jan. 29
Wednesday, Jan. 30

Hyatt Regency,
downtown Columbus

23RD ANNUAL OHIO ENERGY MANAGEMENT CONFERENCE

Tuesday, Feb. 19
Wednesday, Feb. 20

Columbus Renaissance Hotel,
Downtown Columbus

28TH ANNUAL SUSTAINABILITY & EHS SYMPOSIUM

Tuesday, March 26
Wednesday, March 27

Sharonville Convention Center,
Cincinnati

For more information on these highly regarded seminars, including agendas and registration information, visit www.mecseminars.com.

By Angie Lloyd, Executive Director, Ohio Legal Assistance Foundation

LEGAL AID: GOOD FOR BUSINESS

Just before the 2018 holiday season, Columbus-based Just Pies announced the closing of two of its three locations. The problem wasn’t a lack of business — business was booming — but a lack of reliable help. As unemployment reaches record lows, Ohio businesses are battling to attract and retain talent. Although employees may have the best of intentions, Ohioans struggling with housing issues, dependable transportation, family matters, or addiction may be unable to perform reliably on the job.

Ohio’s legal aids are helping Ohioans address the civil legal issues surrounding these challenges, to improve stability for thousands of Ohio employees. As a partner to the business community, Legal Aid plays an important role in helping people get the legal help they need, so that they can remain successfully employed.

Ohio businesses depend on a well-functioning justice system that is accessible to all.

“Ohio businesses depend on a well-functioning justice system that is accessible to all,” says Deborah Majoras, chief legal officer and secretary at Procter & Gamble. “Access to justice for all Ohioans, regardless of the ability to pay for a lawyer, is crucial in supporting a healthy and functioning workforce. It’s why we support Legal Aid.”

Here are five ways that Legal Aid helps Ohio’s businesses, by serving your employees.

1 GETTING EMPLOYEES TO WORK

Without a driver’s license, Columbus-area resident Sarona Williams had a tough time getting to her job. She relied on friends and family for rides, or had to pay for an Uber. A dedicated employee, she needed help navigating the complicated driver’s license reinstatement process. At a recent clinic sponsored by Legal Aid and staffed with pro bono attorneys from firms and local businesses, Williams received help at no cost to her. Attorneys walked her through the steps to get her license back, a relief for Williams, and for her employer.

2 KEEPING EMPLOYEES HOUSED

As housing costs rise, many Ohioans are spending more of their paycheck on rent. If a family falls behind on rent and gets evicted, the stress — coupled with the lack of a stable place to live — makes it difficult for employees to focus at work. Legal Aid helps level the playing field for tenants facing eviction. While the majority of landlords have legal representation during eviction hearings, tenants are far less likely to have an attorney. Legal Aid provides direct representation and advice so that tenants have better outcomes in housing court and are less likely to lose their home.

3 REMOVING BARRIERS TO EMPLOYMENT

Patricia Goodman* is a proud veteran who served in the Army’s Medical Corps during the Vietnam War. During a difficult period in her life, she made a mistake that resulted in a criminal record. Goodman turned her life around and wanted to work, but she knew that her record could hold her back. Legal Aid helped Goodman prepare her application to seal her record and advised her on what to say and do at her hearing. Because of Legal Aid, Goodman’s record was sealed, offering her a fresh start as a willing and capable employee.

4 FIGHTING THE OPIOID CRISIS

The Ohio Chamber’s opioid toolkit for employers and employees is a great resource in the fight against the opioid epidemic. So, too, are Ohio’s legal aids, who are working behind the scenes to sort out complicated legal issues related to addiction. When extended family members are called upon to take in the children of addicted parents, Legal Aid is there to help secure financial support, custody, adoption, or guardianship. Legal Aid also helps Ohioans with substance use disorders secure health care services through Medicaid or Medicaid expansion, to gain access to inpatient or outpatient treatment.

5 HELPING DOMESTIC VIOLENCE SURVIVORS

Marwa Othman,* the mother of two children, moved to Ohio from the Middle East several years ago. Shortly after arriving, her husband began to abuse her. Although she was a medical professional back home, in Ohio she didn’t work and was isolated from friends and family. When Othman decided to leave her abusive husband, Legal Aid helped her obtain a divorce and get custody of her kids. Thanks to Legal Aid, Othman regained her confidence and is now employed and taking college classes.

“Because of Legal Aid, I can provide for my family,” Othman says. “I am very thankful for the help.”

*Name has been changed to protect client privacy.

Angie Lloyd is executive director at the Ohio Legal Assistance Foundation, a funding organization for Ohio’s Legal Aids. Reach her at alloyd@olaf.org or (614) 715-8565.

By Robert S. Gilmore and Kirsten B. Mooney, attorneys, Kohrman Jackson & Krantz LLP

EMPLOYEE RECORD RETENTION IN THE YEAR OF TECHNOLOGY

Record retention is an essential function of an effective human resources program. Before setting up shop, employers must understand what records they should keep, how long they should keep them and in what format the records should be kept. Adequate retention will help safeguard the employer from future legal action and/or costly sanctions. Modern, up-to-date technology could help employers protect employee data more efficiently.

WHAT RECORDS SHOULD AN EMPLOYER RETAIN?

Generally, there are four groups of employee records: personnel files, payroll files, medical files and I-9 files. An employer should keep all four of these for each employee.

Personnel files may include applications and resumes, performance evaluations, attendance records, disciplinary records, handbook receipts, training certificates and contact information. An employee’s payroll files may contain a history of the employee’s compensation changes, relevant government forms such as W-2s and W-4s and any other information essential to payment.

An employee’s medical file should be kept in a separate safe location. It may include doctors’ notes, drug test information and other documentation related to an employee’s health. The medical file receives the highest degree of confidentiality and may only be available to the employer’s human resources department, designated staff and the employee. It is usually recommended that medical files be kept in secure locations (e.g. locked file cabinets or rooms, password-protected storage, etc.).

Finally, I-9 Forms should be kept separately for easy access. I-9 Forms are used to verify the employee’s identity and legal authorization to work in the United States. Keeping the I-9 Form separate ensures that the employer will be able to comply with any federally mandated I-9 review. Please note that if subject to a review by the Department of Homeland Security, the Immigrant and Employee Rights Section (IER), Department of Justice (DOJ), or the Department of Labor (DOL), the employer must make copies of the forms available on three business days’ notice.

HOW LONG SHOULD EMPLOYERS RETAIN THESE RECORDS?

Both federal and state law mandate that employers keep certain records for a specific amount of time. Although it may be challenging, because each law has a different set of requirements, often for the same records, an employer may be subject to very expensive fines and legal fees if it does not comply.

- **Fair Labor Standards Act (FLSA):** Under the FLSA, personnel records, billing records and records for deductions from wages paid must be kept for two years. Payroll records, certificates, agreements, plans, and sale and purchase records must be kept for three years.
- **Civil Rights Act of 1964 (Title VII)/ADEA/ADA:** Under Title VII of the Ohio Civil Rights Act of 1964 and the ADA, employers with at least 15 employees must retain personnel records related to hire, promotions, transfers, demotions, training and terminations for one year. The ADEA requires the retention of the same records for one year for employers with 20 or more employees.
- **Family Medical Leave Act (FMLA):** The FMLA, which covers employers with 50 or more employees, requires the retention of certain records related to payroll and demographic information,

as well as any information related to an employee’s leave of absence, for three years. This applies even if you deny the employee leave. Specifically, an employer should make sure that it keeps track of when the employee’s leave began and how much time was used during the leave. If the employee has intermittent FMLA, careful tracking of number of hours used should be completed.

- **Occupational Safety and Health Act:** OSHA requires that records of job-related injuries be kept for five years, and records related to medical exams and toxic substance and blood-borne pathogen exposure to be kept for 30 years.

- **Immigration Reform and Control Act:** The Immigration Reform and Control Act requires that employers keep employees’ Form 1-9 documents for three years after the date of hire or one year after date of termination, whichever is later.

In addition, the statute of limitations for filing an unlawful discrimination claim in Ohio under R.C. 4112 is generally six years. Accordingly, it is a best practice for Ohio employers to retain all records related to an employee’s termination for at least six years.

CAN TECHNOLOGY HELP?

It is becoming more and more commonplace for employers to digitize employee records. While maintaining these records in electronic format has obvious benefits, including better accessibility and storage efficiency, employers must be mindful of avoiding legal pitfalls under federal and state law.

Retention requirements are generally satisfied if the electronic media has reasonable controls, can maintain the records in a well-organized manner, can convert into paper copies and can allow employers to effectively comply with reporting requirements.

In addition, Blockchain is now set to become the next trend for employee record retention. Blockchain is an encrypted digital ledger of public records organized into groups of data called “blocks” and distributed over networks. Only those connected to a block may add information, and the information may not be deleted or changed. These types of systems could make the concept of “self-sovereign identity” — the idea that employees may control data about themselves — a possible reality.

For example, the network could allow potential employees to share verified data with employers, and at the same time, reduce the likelihood of third-party companies providing inaccurate data. Another emerging application of Blockchain is the ability to better safeguard medical records. Employee medical information may be added to a “block,” making it available to only those with permission to access the network. While there are current challenges to Blockchain in the employment context, many scholars believe it will make employer record retention much less complex and inexpensive.

Robert Gilmore is chair of the Kohrman Jackson Krantz Litigation Practice Group and Labor & Employment Law Practice Group. Reach him at rsg@kjk.com or (216) 736-7240.

Kirsten Mooney is a research and writing associate whose work focuses on labor and employment law and domestic relations. Reach her at kbm@kjk.com or (216) 736-7239.

By Chad Willits and Thomas Spyker, attorneys at Reminger Co., LPA

BEST PRACTICES FOR ANTICIPATING AND ACCOMMODATING RELIGIOUS OBSERVANCES

Christmas became a federally observed holiday in 1870. Since then, the U.S. Supreme Court has recognized not only the religious but also the growing secular significance of the holiday in American culture. As a result, employers can easily expect multiple vacation requests for Dec. 25 and plan accordingly. Many employers simply close for the day, eliminating controversy and accommodating employees’ need for time off for religious observance.

But how can employers plan for and accommodate religious observances they may be less familiar with? For example, Vaisakhi is the day Sikhs mark the founding of Khalsa in 1699 (April 14), while Diwali is the Hindu festival of lights (celebrated during autumn in the northern hemisphere). These and other days throughout the year hold significance for non-Christian employees. As workplaces continue to become more diverse, employers must anticipate and accommodate religious observances that do not conform to the recognized year-end “holiday season.”

It is not only a good business practice to know your workforce and accommodate their religious observances, it can often be a legal requirement, as well. Specifically, Ohio employers that employ four or more people are required to make reasonable religious accommodations, unless it would create an undue hardship on the business. These requests for accommodation often come in the form of time off.

WHAT IS AN UNDUE HARDSHIP WHEN IT COMES TO ACCOMMODATING A RELIGIOUS HOLIDAY?
Some employers may be familiar with the term undue hardship as it is used in the Americans with Disabilities

Act, which defines an undue hardship as a significant burden or expense. Importantly, the standard is not the same under Title VII of the Civil Rights Act of 1964, which defines an undue hardship as a cost or burden that is more than minimal or normal.

In the context of accommodating religious holidays, administrative costs associated with switching an employee’s schedule and infrequent overtime to cover days off are not seen as an undue burden. However, hiring additional employees or using frequent overtime to cover extended time off likely constitute an undue hardship.

Best practice: Employers should liberally grant accommodations that only require staffing or scheduling adjustments or the infrequent use of overtime. If a situation arises that exceeds the normal cost of business, consult with an employment attorney if possible before denying the request. These situations are highly fact-dependent, and refusing an accommodation could expose the employer to litigation.

ANTICIPATING REQUESTS AND HANDLING CONFLICTING REQUESTS
Problems arise when requests for time off are made with short notice, or when multiple employees request the same day off. These conflicts can sometimes be avoided by preparing ahead of time. It is important to project the days off all your employees will want to take throughout the year, regardless of whether they are religious in nature. One employee’s religious observance at the end of May could conflict with another employee’s planned vacation for their child’s graduation the same week. This is not a situation you want to resolve in the middle of May; it is one you want to plan for in January.

Best practice: Have all employees fill out a “Projected Vacation Calendar” at the beginning of the calendar year showing the dates each employee prefers to take off throughout the year. Broadly solicit all anticipated time off, regardless of the reason, and avoid inquiries about specific holidays that might unnecessarily identify an employee’s religious affiliation. This simple practice allows the employer to not only anticipate religious observances they may not have been aware of, but also project any conflicts well in advance.

Even when using this system, employees will inevitably request unanticipated off days and unavoidable conflicts will arise with multiple employees requesting the same days off. Well-developed policies and procedures will help employers navigate these issues.

Best practices:

- Develop a policy for granting time off that clearly states its commitment to making accommodations for religious observances whenever possible.
- Require employees to request time off a set period in advance to avoid last-minute issues.
- Develop a seniority-based or other neutral system to resolve conflicting requests in an objective and nondiscriminatory manner.

IS AN EMPLOYER REQUIRED TO GIVE PAID TIME OFF FOR A RELIGIOUS ACCOMMODATION?
If an employee has paid time off available (such as vacation, PTO, or comp time) and wishes to use it for a religious observance, an employer should allow this, so long as it does not create an undue hardship. Controversy arises when an employee does not

have any remaining paid leave but nevertheless requests a religious accommodation for time off. While employers are not required to pay the employee for this time, the U.S. Supreme Court has indicated a strong preference for allowing an employee to take unpaid time off as a reasonable accommodation for religious observances.

Best practices: If the only barrier to granting a requested accommodation is the employee’s lack of vacation time, grant the request to take unpaid time off for the observance. Additionally, explore alternative accommodations such as voluntary shift trading among employees and flexible work schedules that allow an employee to make up any time missed.

While the practices outlined in this article will go a long way toward avoiding conflict, this complicated area of employment law frequently involves unique situations requiring expert analysis. In addition to scheduling headaches, holiday vacation requests can have wage and hour and FMLA implications, as well.

Best practice: Consult with a qualified employment attorney before making a decision that could expose your organization to liability.

Chad Willits and Thomas Spyker practice at Reminger Co., LPA in the firm’s Employment Practices Defense group and offer consultation and litigation services to business clients. Willits practices in the Cincinnati office and can be reached at cwillits@reminger.com. Spyker practices in the Columbus office and can be reached at tspyker@reminger.com.

© 2018 Reminger Co., LPA

OCCRF RELEASES THIRD QUARTER RESULTS OF ITS PROSPERITY PULSE SURVEY

The latest results from the Prosperity Pulse Survey show a mostly positive outlook for Ohio businesses. The Prosperity Pulse evaluates anticipated profits, plans to add jobs, unfilled jobs, planned capital expenditures and overall economic outlook. Each of these components had a positive change from second quarter results. Ninety-one percent of business leaders are optimistic about the future economic health of their company.

The biggest concerns that business leaders have are:

- ① Cost of health care
- ② Ohio’s political environment
- ③ Cost of employee benefits
- ④ Attracting/retaining qualified employees
- ⑤ Tied between state government regulations and data security

The report further breaks down these concerns by region. The survey results reveal many more details like this, but a few notable findings are:

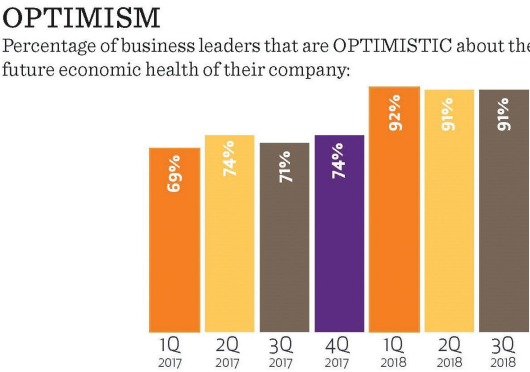
- Even though more than half of manufacturing businesses saw their employee headcounts go up during 3Q, 67.5 percent project an increase in 4Q as well.
- Among small employers (one to 400 employees), 69 percent reported increased employee head counts in 3Q.
- In Southeast Ohio, 52 percent of employers have jobs they are unable to fill, more than any other region of the state.
- Businesses in Northeast Ohio are most bullish about the future,



with 54.7 percent expecting the economy to be even better next quarter.

The Ohio Chamber of Commerce Research Foundation partnered with Clout Research to conduct the Prosperity Pulse, a quarterly survey of business leaders in various sectors across the Ohio regarding the strength of the state economy.

The survey included 403 respondents who completed survey interviews



online and on the telephone with live agent interviewers between Oct. 5 and Oct. 27, 2018. It carries a confidence interval of 95 percent and a margin of error of +/- 4.86 percentage points.

If you would like to participate in the next Prosperity Pulse, contact Keith Lake at klake@ohiochamber.com.

For more detailed information, visit the Ohio Chamber of Commerce Research Foundation website at: ohiochamberfoundation.com.

OHIO CHAMBER CONTACTS

With the New Year comes changes at the Ohio Chamber of Commerce. Please be sure to save this information for future reference, and don't hesitate to contact us, as we are here to serve you! 📠



(614) 228-4201



Ohio Chamber of Commerce
34 S. Third St., Suite 100,
Columbus, OH 43215



www.ohiochamber.com



www.allforohio.com



Ohio Chamber of Commerce



@OhioChamber



Ohio Chamber



Ohio Chamber of Commerce

STAFF

President and CEO Andy Doehrel,
adoehrel@ohiochamber.com

Executive Assistant Ashley Brown,
abrown@ohiochamber.com

Vice President, Administration Jennifer Osburn
josburn@ohiochamber.com

Receptionist Michelle Anderson,
manderson@ohiochamber.com

Vice President, Communications, Julie Wagner Feasel,
jfeasel@ohiochamber.com

Director, Communications, Micaela Wright,
mwright@ohiochamber.com

Vice President, Government Affairs, Keith Lake,
klake@ohiochamber.com

Director, Energy & Environmental Policy, Zack Frymier,
zfrymier@ohiochamber.com

Director, Small Business & Workforce Policy,
Kevin Boehner, kboehner@ohiochamber.com

Director, Labor & Legal Affairs, Kevin Shimp,
kshimp@ohiochamber.com

Government Affairs Assistant Sherry Heffner,
sheffner@ohiochamber.com

Vice President, Membership, Andy Piccolantonio,
apiccolantonio@ohiochamber.com

Director, External Relations, Stephanie Kromer,
skromer@ohiochamber.com

Director, External Relations, Justin Giaimo,
jgiaimo@ohiochamber.com

Director, External Relations, Justin Zink,
jzink@ohiochamber.com

Director, Business Development, Scott Colby,
scolby@ohiochamber.com

NEW MEMBERS

Please welcome the following new members that joined the Ohio Chamber of Commerce between July 31 and Dec. 18, 2018. Welcome!

- Aida-America Corp., Dayton
- Alpine Products Inc., Dayton
- Ambulatory Medical Care Inc., Milford
- Amgen, Fishers, Indiana
- Amy Sigg Davis Et Al, Lebanon
- Apec Engineering Inc., Bedford
- CG Construction & Utilities Inc., Miamisburg
- CHSPSC, LLC, Franklin, Tennessee
- Confluence Corp., Millersburg
- Corbett Plumbing LLC, Canal Winchester
- Donatos Pizza 0402, Buckeye Lake
- Emergent Enterprises, Springfield
- Encore Industries Inc., Cambridge
- Englewood Florist & Gift Shoppe LLC, Englewood
- FA Requarth Co., Dayton
- Fallen Timbers Fairways, Waterville
- Frame's Pest Control Inc., Sylvania
- Grieser Interiors Inc., Wauseon
- Griffin Pavement Striping Inc., Columbus
- Helping Hands Contracting Inc., Mount Pleasant
- Hood Packaging Corp., Wilmington
- IWATA Bolt USA Inc., Fairfield
- JB Kain Inc., Dayton
- Ka Sims Enterprises, London
- Kerr Connect LLC, Wilmington
- Kroger, Westerville
- Kurt D Harrison DO PC, Fremont
- Manning & Associates CPAs LLC, Dayton
- Meier Dirksen Inc., Versailles
- MJ Companies LLC, Grove City
- Mound Laser & Photonics Center Inc., Kettering
- National Door & Trim Inc., Van Wert
- Oak Harbor Area Chamber of Commerce, Oak Harbor
- Ohio Bankers League, Columbus
- Ohio Timberland Trucking Inc., Stryker
- Optika, Dayton
- Palisades Arcadia Baseball LLC, Dayton
- Plating Technology Inc., Dayton
- Precise Sales LLC, Chardon
- Preston Auto Mall Inc., Boardman
- Reset Business Consulting, Winchester
- RLFSHOP LLC, Dayton
- Smart Landscaping Inc., New Carlisle
- Southpaw Enterprises Inc., Moraine
- Standard Wellness, Hudson
- The Cottages of Clayton Inc., Huron
- Three Dog Bakery, Mayfield Heights
- Toledo Society for the Blind Inc., Toledo
- Trilliums Transportation Fuels LLC, Oklahoma City, Oklahoma
- Twin Rivers Construction Co., Marietta
- Van Martin Windows and Roofing LLC, Dayton
- Viking Group Inc., Dayton
- West Automotive Parts Co., Cleveland
- WGU Western Gov University, Columbus

MEMBER NEWS

SAVE THE DATE

In 2019, the Ohio Chamber of Commerce will be hosting two large member events. The first is our Annual Meeting & Legislative Reception on Wednesday, May 8. The Annual Meeting will be at the Jo Ann Davidson Theatre in the Riffe Building. The Legislative Reception is at the Sheraton on Capitol Square. The second event is the Policy Conference at Salt Fork, better known as Salt Fork. This event is Wednesday, Sept. 4 to Friday, Sept. 6 at Salt Fork State Park near Cambridge, Ohio. Watch your mail, email and this publication for more information on these events.

EMPLOYMENT DATA AVAILABLE ON NEW OHIOLMI APP

The Ohio Department of Job and Family Services' Bureau of Labor Market Information (LMI) has launched a mobile app that allows employment data to be accessed anywhere, any time.

"This is just another way we're using technology to make our data more accessible," says ODJFS Director Cynthia Dungey, whose agency oversees both the bureau and OhioMeansJobs.com. "The OhioLMI app has key metrics that make it easy to stay informed about the labor market in Ohio."

The app contains state and local data regarding the labor force, employment in various industries and unemployment rates. It's available for

both iOS and Android devices through the App Store and Google Play.

Ohio's Bureau of Labor Market Information works in partnership with the U.S. Department of Labor to collect and analyze industry, occupational and employment information. These data are used extensively by local employment professionals, other state agencies, industry and media organizations, and private citizens who rely on the bureau's reporting, analysis and expertise.



79TH MIDWEST FISH AND WILDLIFE CONFERENCE JAN. 27-30, 2019

The 79th Midwest Fish and Wildlife Conference is Jan. 27-30, 2019, at the Hilton Cleveland Downtown Hotel in Cleveland, Ohio. This annual event will attract over 800 biologists and students from state, federal and tribal national resources agencies from the Midwest, Great Plains, Rocky Mountains and Canadian provinces. Highlights include over 400 technical talks, networking opportunities and social events.

Sponsorship and exhibitor opportunities are available. For more information, contact Kendra Wecker at the Ohio Department of Natural Resources at kendra.wecker@dnr.state.oh.us or (614) 265-7043.

750 BUSINESSES/ ORGANIZATIONS USING OHIO EPA MATERIALS MARKETPLACE

According to Ohio EPA Director Craig W. Butler, the Ohio Materials Marketplace (OMM) has had a very successful year and invited businesses and organizations from across the state to join the free online service for advertising and acquiring potentially useful products and materials that might otherwise be destined for disposal in landfills.

"Ohio businesses diverted 3.5 million pounds of 'waste material' from landfills last year as a result of exchanges on our marketplace, saving businesses an estimated \$200,000 in disposal costs," Butler says. "I encourage large and small businesses and organizations throughout Ohio to join this free service. It makes good business sense and represents a new way of thinking about how we can reuse materials that might otherwise be thrown away in landfills."

Launched by Ohio EPA in 2017, more than 750 Ohio businesses and organizations have signed up for OMM, which features 155 items listed as available and several hundred materials listed as wanted. The program was launched with support from the not-for-profit United States Business Council for Sustainable Development. For more information, or to sign up for the Ohio Materials Marketplace, go to www.ohio.materialsmarketplace.org. 📠

NEW YEAR, NEW FACES, NEW GOALS



Welcome to 2019 and to the opportunities it brings. As the state's leading business advocate, a new year brings new faces in the Ohio General Assembly and to state leadership. In addition, 2019 is a state budget year, which always brings much debate to the Ohio Statehouse.

The General Assembly begins the new legislative session with 30 new faces and several members who have jumped from the House to the Senate, and vice versa. In this issue, we have an article highlighting some of those new members, along with a list of all of them. Our legislative team will be meeting personally with new legislators to make them aware of our legislative goals. These goals are published in our Public Policy Priorities agenda, which all of our members will receive. This publication is developed with input from all of our committees. The Public Policy Priorities lays out the goals for the state legislature to meet to ensure our state remains economically competitive.

2019 also brings new statewide leadership headed up by Gov. Mike DeWine and Lt. Gov. Jon Husted.

DeWine has contributed an article to this publication that lays out his Ohio's Prosperity Plan. We look forward to working with him, his administration and the other new statewide leaders to make Ohio THE place to live and work.

Our new headquarters, directly across from the Senate building, will be very handy as we anticipate much activity at the Statehouse. As with past legislative sessions, a flurry of bills will be introduced during the first quarter of the year, with the budget debate lasting through June. In order to stress the impact that proposed legislation will have on Ohio businesses, we will most likely call on you, our members, to contact their elected officials or even provide testimony in committee hearings. It is imperative that elected officials hear from the business community.

Also on tap for 2019 is our Annual Meeting & Legislative Reception and our Policy Conference at Salt Fork. The Annual Meeting & Legislative Reception is scheduled for Wednesday, May 8, with the meeting in the Jo Ann Davidson Theatre inside the Riffe Building and the reception at the Sheraton on Capital Square.

The Policy Conference at Salt Fork will be Sept. 4-6 at Salt Fork State Park just outside of Cambridge. Information on both of these events will be sent to you via mail and/or email.

Our Opioid Toolkit continues to be available on our website for all businesses to use at no cost. The five online video segments also include handy materials that can be printed and used for office training and education. The toolkit has drawn national recognition and is being used by a number of other states.

While 2018 was a whirlwind for us, we are looking forward to what 2019 brings. As we tackle the issues at the Statehouse, know that the Ohio Chamber of Commerce will be laser focused when it comes to protecting Ohio's economic climate. Every day, we will be advocating for your best interests so you can concentrate on your company. Here's to a productive and prosperous New Year! 🇺🇸

Andrew E. Dechul

EDITORIAL POLICY

Articles written by guest columnists do not necessarily reflect the position of the Ohio Chamber of Commerce. The Chamber's position on key issues will be clearly stated. The Ohio Chamber of Commerce does not necessarily endorse the products and services advertised in *Ohio Matters*. Articles can be reproduced, but only with permission from, and attribution given to, the Ohio Chamber of Commerce. For authorization, please contact Ohio Chamber Vice President of Communications Julie Wagner Feasel at 614.228.4201. The Chamber reserves the right to reject advertising based on content and does not accept advertising that is in conflict with a position of the Chamber.

Ohio Matters is a bimonthly publication for members of the Ohio Chamber of Commerce. Subscription cost is included with annual dues.

POSTMASTER

Please send address changes to *Ohio Matters*, Attn: Database Manager, Ohio Chamber of Commerce, 34 S. Third St., Suite 100 Columbus, Ohio 43215

FOR MORE INFORMATION CONTACT

Julie Wagner Feasel
Vice President of Communications
jfeasel@ohiochamber.com

OHIO CHAMBER OF COMMERCE

34 S. Third Street, Suite 100
Columbus, OH 43215
614.228.4201 • 800.622.1893
Fax 614.228.6403
occ@ohiochamber.com
www.ohiochamber.com
www.ohiobusinessvotes.com

DESIGN AND PRODUCTION

Ohio Matters is published by Convero
835 Sharon Drive, Suite 200
Cleveland, OH 44145
844-428-8844 • www.converoinc.com
Sue Ostrowski, Managing Editor
Wendy Armon, Senior Graphic Designer

Katie Janoch, Advertising Sales
440.250.7073 • kjanoch@sbnonline.com



What if we had the solution to your healthcare challenges?

The plans utilize local medical networks providing you innovative coverage and allowing you to keep your doctor.

You benefit from exclusive pricing, and a fully integrated wellness program with cash incentives and deductible credits.

Contact the Ohio Chamber to learn more!

Scott Colby

614.629.0913 | scolby@ohiochamber.com



#ALLFOROHIO