

# AN ACT

To amend sections 2305.24, 2305.25, 2305.251, 3313.68, 3701.07, 3701.85, 3702.51, 3719.13, 3721.031, 3721.34, 3727.01, 4723.02, 4723.03, 4723.04, 4723.051, 4723.06, 4723.061, 4723.07, 4723.08, 4723.09, 4723.15, 4723.171, 4723.24, 4723.25, 4723.28, 4723.281, 4723.282, 4723.31, 4723.32, 4723.34, 4723.341, 4723.35, 4723.40, 4723.42, 4723.43, 4723.47, 4723.48, 4723.62, 4723.74, 4723.76, 4723.79, 4723.99, 4731.27, 4731.281, 4743.05, 4751.05, 5111.04, and 5126.35; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4723.02 (4723.01), 4723.04 (4723.02), 4723.051 (4723.10), 4723.31 (4723.082), and 4723.39 (4723.081); to enact sections 3701.91, 4113.512, 4723.021, and 4723.33; to re-enact section 4723.17, as amended by Am. Sub. H.B. 241 and Am. Sub. S.B. 178 of the 123rd General Assembly; and to repeal section 4723.342 of the Revised Code to revise the laws regarding the practice of nursing and the licensing and enforcement duties of the Board of Nursing, to establish the confidentiality of records held by peer review and utilization review committees of long-term care facilities and immunities from civil liability related to those committees, and to amend the version of 4723.99 of the Revised Code that is scheduled to take effect June 27, 2001, to continue the provisions of this act on and after that effective date.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2305.24, 2305.25, 2305.251, 3313.68, 3701.07, 3701.85, 3702.51, 3719.13, 3721.031, 3721.34, 3727.01, 4723.02, 4723.03, 4723.04, 4723.051, 4723.06, 4723.061, 4723.07, 4723.08, 4723.09, 4723.15, 4723.171, 4723.24, 4723.25, 4723.28, 4723.281, 4723.282, 4723.31, 4723.32, 4723.34, 4723.341, 4723.35, 4723.40, 4723.42, 4723.43, 4723.47, 4723.48, 4723.62, 4723.74, 4723.76, 4723.79, 4723.99, 4731.27, 4731.281, 4743.05, 4751.05, 5111.04, and 5126.35 be amended; sections 4723.02 (4723.01), 4723.04 (4723.02), 4723.051 (4723.10), 4723.31 (4723.082), and 4723.39 (4723.081) be amended for the purpose of adopting new section numbers as indicated in parentheses; and sections 3701.91, 4113.512, 4723.021, and 4723.33 of the Revised Code be enacted to read as follows:

Sec. 2305.24. Any information, data, reports, or records made available to a quality assurance committee or utilization committee of a hospital or long-term care facility or of any not-for-profit health care corporation that is a member of the hospital or long-term care facility or of which the hospital or long-term care facility is a member shall be confidential and shall be used by the committee and the committee members only in the exercise of the proper functions of the committee. Any information, data, reports, or records made available to a utilization committee of a state or local medical society composed of doctors of medicine or doctors of osteopathic medicine ~~and surgery~~ shall be confidential and shall be used by the committee and the committee members only in the exercise of the proper functions of the committee. A right of action similar to that a patient may have against an attending physician for misuse of information, data, reports, or records arising out of the physician-patient relationship shall accrue against a member of a quality assurance committee or utilization committee for misuse of any information, data, reports, or records furnished to the committee by an attending physician. No physician, ~~surgeon~~, institution, ~~or~~ hospital, or long-term care facility furnishing information, data, reports, or records to a committee with respect to any patient examined or treated by the physician ~~or surgeon~~ or confined in the institution ~~or~~ hospital, or long-term care facility shall, by reason of the furnishing, be deemed liable in damages to any person, or be held to answer for betrayal of a professional confidence within the meaning and intent of section 4731.22 of the Revised Code. Information, data, or reports furnished to a utilization committee of a state or local medical society shall contain no name of any person involved therein.

As used in this section, "utilization committee" is the committee

established to administer a utilization review plan of a hospital, of a not-for-profit health care corporation which is a member of the hospital or of which the hospital is a member, or of ~~an extended care~~ a skilled nursing facility as provided in the "Health Insurance for the Aged Act," 79 Stat. 313 (1965), 42 U.S.C. 1395x(k).

Sec. 2305.25. (A) No health care entity and no individual who is a member of or works on behalf of any of the following boards or committees of a health care entity or of any of the following corporations shall be liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the board, committee, or corporation:

(1) A peer review committee of a hospital or long-term care facility, a nonprofit health care corporation which is a member of the hospital or long-term care facility or of which the hospital or facility is a member, or a community mental health center;

(2) A board or committee of a hospital or long-term care facility or of a nonprofit health care corporation which is a member of the hospital or long-term care facility or of which the hospital or long-term care facility is a member reviewing professional qualifications or activities of the ~~hospital~~ medical staff of the hospital or long-term care facility or applicants for admission to the medical staff;

(3) A utilization committee of a state or local society composed of doctors of medicine, doctors of osteopathic medicine, or doctors of podiatric medicine;

~~(4) A peer review committee of nursing home providers or administrators, including a corporation engaged in performing the functions of a peer review committee of nursing home providers or administrators, or a corporation engaged in the functions of another type of peer review or professional standards review committee;~~

~~(5)~~ A peer review committee, professional standards review committee, or arbitration committee of a state or local society composed of doctors of medicine, doctors of osteopathic medicine, doctors of dentistry, doctors of optometry, doctors of podiatric medicine, psychologists, or pharmacists;

~~(6)~~(5) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers, which conduct adversely affects, or could adversely affect, the health or welfare of any patient. For purposes of this division, "health insuring corporation" includes wholly owned subsidiaries of a health insuring

corporation.

~~(7)~~(6) A peer review committee of any insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;

~~(8)~~(7) A peer review committee of any insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the insurer to provide health care services to insureds, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;

~~(9)~~(8) A peer review committee of an insurer authorized under Title XXXIX of the Revised Code to do the business of medical professional liability insurance in this state and that conducts professional quality review activities involving the competence or professional conduct of health care providers, which conduct adversely affects, or could affect, the health or welfare of any patient;

~~(10)~~(9) A peer review committee of a health care entity.

(B)(1) A hospital shall be presumed to not be negligent in the credentialing of a qualified person if the hospital proves by a preponderance of the evidence that at the time of the alleged negligent credentialing of the qualified person it was accredited by the joint commission on accreditation of health care organizations, the American osteopathic association, or the national committee for quality assurance.

(2) The presumption that a hospital is not negligent as provided in division (B)(1) of this section may be rebutted only by proof, by a preponderance of the evidence, of any of the following:

(a) The credentialing and review requirements of the accrediting organization did not apply to the hospital, the qualified person, or the type of professional care that is the basis of the claim against the hospital.

(b) The hospital failed to comply with all material credentialing and review requirements of the accrediting organization that applied to the qualified person.

(c) The hospital, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew

that a previously competent qualified person with staff privileges at the hospital had developed a pattern of incompetence that indicated that the qualified person's privileges should have been limited prior to treating the plaintiff at the hospital.

(d) The hospital, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent qualified person with staff privileges at the hospital would provide fraudulent medical treatment but failed to limit the qualified person's privileges prior to treating the plaintiff at the hospital.

(3) If the plaintiff fails to rebut the presumption provided in division (B)(1) of this section, upon the motion of the hospital, the court shall enter judgment in favor of the hospital on the claim of negligent credentialing.

(C) Nothing in this section otherwise shall relieve any individual or health care entity from liability arising from treatment of a patient or resident. Nothing in this section shall be construed as creating an exception to section 2305.251 of the Revised Code.

(D) No person who provides information under this section without malice and in the reasonable belief that the information is warranted by the facts known to the person shall be subject to suit for civil damages as a result of providing the information.

(E) As used in this section:

(1) "Peer review committee" means a utilization review committee, quality assurance committee, quality improvement committee, tissue committee, credentialing committee, or other committee that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care practitioners.

(2) "Health care entity" means a government entity, a for-profit or nonprofit corporation, a limited liability company, a partnership, a professional corporation, a state or local society as described in division (A)(3) of this section, or other health care organization, including, but not limited to, health care entities described in division (A) of this section, whether acting on its own behalf or on behalf of or in affiliation with other health care entities, that conducts, as part of its purpose, professional credentialing or quality review activities involving the competence or professional conduct of health care practitioners or providers.

(3) "Hospital" means either of the following:

(a) An institution that has been registered or licensed by the Ohio department of health as a hospital;

(b) An entity, other than an insurance company authorized to do business in this state, that owns, controls, or is affiliated with an institution

that has been registered or licensed by the Ohio department of health as a hospital.

(4) "Qualified person" means a member of the medical staff of a hospital or a person who has professional privileges at a hospital pursuant to section 3701.351 of the Revised Code.

(F) This section shall be considered to be purely remedial in its operation and shall be applied in a remedial manner in any civil action in which this section is relevant, whether the civil action is pending in court or commenced on or after the effective date of this section, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state.

Sec. 2305.251. Proceedings and records within the scope of the peer review or utilization review functions of all review boards, committees, or corporations described in section 2305.25 of the Revised Code shall be held in confidence and shall not be subject to discovery or introduction in evidence in any civil action against a health care professional, a hospital, a long-term care facility, a not-for-profit health care corporation that is a member of a hospital or long-term care facility or of which a hospital or long-term care facility is a member, or another health care entity arising out of matters that are the subject of evaluation and review by the review board, committee, or corporation. No person in attendance at a meeting of a review board, committee, or corporation or serving as a member or employee of a review board, committee, or corporation shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the review board, committee, or corporation or as to any finding, recommendation, evaluation, opinion, or other action of the review board, committee, or corporation or a member or employee of it. Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or for use in any civil action merely because they were presented during proceedings of a review board, committee, or corporation, nor should any person testifying before a review board, committee, or corporation or who is a member or employee of the review board, committee, or corporation be prevented from testifying as to matters within the person's knowledge, but the witness cannot be asked about the witness's testimony before the review board, committee, or corporation or an opinion formed by the witness as a result of the review board, committee, or corporation hearing. An order by a court to produce for discovery or for use at trial the proceedings or records described in this section is a final order.

Sec. 3313.68. The board of education of each city, exempted village, or

local school district may appoint one or more school physicians and one or more school dentists. Two or more school districts may unite and employ one such physician and at least one such dentist whose duties shall be such as are prescribed by law. Said school physician shall hold a license to practice medicine in Ohio, and each school dentist shall be licensed to practice in this state. School physicians and dentists may be discharged at any time by the board of education. School physicians and dentists shall serve one year and until their successors are appointed and shall receive such compensation as the board of education determines. The board of education may also employ registered nurses, as defined by section ~~4723.02~~ 4723.01 and licensed as school nurses under section 3319.22 of the Revised Code, to aid in such inspection in such ways as are prescribed by it, and to aid in the conduct and coordination of the school health service program. The school dentists shall make such examinations and diagnoses and render such remedial or corrective treatment for the school children as is prescribed by the board of education; provided that all such remedial or corrective treatment shall be limited to the children whose parents cannot otherwise provide for same, and then only with the written consent of the parents or guardians of such children. School dentists may also conduct such oral hygiene educational work as is authorized by the board of education.

The board of education may delegate the duties and powers provided for in this section to the board of health or officer performing the functions of a board of health within the school district, if such board or officer is willing to assume the same. Boards of education shall co-operate with boards of health in the prevention and control of epidemics.

Sec. 3701.07. (A) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code defining and classifying hospitals and dispensaries and providing for the reporting of ~~classification~~ information by hospitals and dispensaries. The rules ~~may require each hospital to report information in the following categories, shall limit the information to information necessary to classify hospitals and dispensaries as general or specialty facilities, and providing for the reporting of information~~ shall not ~~include~~ require inclusion of any confidential patient data or any information concerning the financial condition, income, expenses, or net worth of the facilities other than that financial information already contained in those portions of the medicare or medicaid cost report that is necessary for the department of health to certify the per diem cost under section 3701.62 of the Revised Code. The rules may require the reporting of information in the following categories:

- (1) Information needed to identify and classify the institution;

(2) Information on facilities and type and volume of services provided by the institution;

(3) The number of beds listed by category of care provided;

(4) The number of licensed or certified professional employees by classification;

(5) The number of births that occurred at the institution the previous calendar year;

(6) Any other information that the council considers relevant to the safety of patients served by the institution.

Every hospital and dispensary, public or private, annually shall register with and report to the department of health ~~on forms.~~ Reports shall be submitted in the manner prescribed in rules adopted under this division.

(B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 or division (A)(10) of section 3722.01 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code and to adult care facility managers as defined in section 3722.01 of the Revised Code.

(C) Every governmental entity or private nonprofit corporation or association whose employees or representatives act as residents' rights advocates for community alternative homes pursuant to section 3724.08 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, and associations registering under this division and shall update the list annually. Copies of the list shall be made available to operators or residence managers of community alternative homes as defined in section 3724.01 of the Revised Code.

Sec. 3701.85. (A) As used in this section:

(1) "Automated external defibrillation" has the same meaning as in section 2305.235 of the Revised Code.

(2) "Emergency medical services organization" has the same meaning as

in section 4765.01 of the Revised Code.

(3) "Emergency medical service provider" means a person who is an "emergency medical technician-basic," "emergency medical technician-intermediate," "emergency medical technician-paramedic," or "first responder" as defined in section 4765.01 of the Revised Code.

(4) "Physician" has the same meaning as in section 4765.01 of the Revised Code.

(5) "Registered nurse" and "licensed practical nurse" have the same meanings as in section ~~4723.02~~ 4723.01 of the Revised Code.

(B) A person who possesses an automated external defibrillator shall do all of the following:

(1) Require expected users to complete successfully a course in automated external defibrillation and cardiopulmonary resuscitation that is offered or approved by the American heart association or another nationally recognized organization;

(2) Maintain and test the defibrillator according to the manufacturer's guidelines;

(3) Consult with a physician regarding compliance with the requirements of divisions (B)(1) and (2) of this section.

(C) A person who possesses an automated external defibrillator may notify an emergency medical services organization of the location of the defibrillator.

(D) A person who has obtained appropriate training on how to perform automated external defibrillation and has successfully completed a course in cardiopulmonary resuscitation may perform automated external defibrillation, regardless of whether the person is a physician, registered nurse, licensed practical nurse, or emergency medical service provider. When automated external defibrillation is not performed as part of an emergency medical services system or at a hospital as defined in section 3727.01 of the Revised Code, an emergency medical services system shall be activated as soon as possible.

Sec. 3701.91. The department of health shall make available to the public a toll-free patient safety telephone line. The department may make the toll-free patient safety telephone line available by maintaining a toll-free telephone line specifically for accepting calls regarding patient safety or by using a toll-free telephone line that the department maintains for accepting calls regarding other matters.

The department shall accept calls placed through the toll-free patient safety telephone line by any person seeking to report an action or failure to act in the provision of health care that the person in good faith believes has

resulted in or is likely to result in harm to a patient. This section shall not be used by the department to accept calls pertaining to a home, as defined in section 3721.10 of the Revised Code.

A person who makes a report under this section is not required to provide any information to the department that could reveal the person's identity. Information provided by a person under this section is not a public record as defined in section 149.43 of the Revised Code.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Health service area" means a geographic region designated by the director of health under section 3702.58 of the Revised Code.

(E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service.

(F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code.

(G) "Health care facility" means:

(1) A hospital registered under section 3701.07 of the Revised Code;

(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(4) A freestanding dialysis center;

(5) A freestanding inpatient rehabilitation facility;

(6) An ambulatory surgical facility;

(7) A freestanding cardiac catheterization facility;

(8) A freestanding birthing center;

(9) A freestanding or mobile diagnostic imaging center;

(10) A freestanding radiation therapy center.

A health care facility does not include the offices of private physicians

and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or habilitation centers certified by the director of mental retardation and developmental disabilities under section 5123.041 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division ~~(G)~~(E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means a health care facility that is licensed or otherwise approved to practice in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and actively provides health services or has not been actively providing health services for less than twelve consecutive months.

(M) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

(N) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.

(O) "Affected person" means:

(1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;

(2) The person that requested the reviewability ruling in question;

(3) Any person that resides or regularly uses health care facilities within the geographic area served or to be served by the health care services that would be provided under the certificate of need or reviewability ruling in question;

(4) Any health care facility that is located in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(5) Third-party payers that reimburse health care facilities for services in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code or submitted written comments in the course of review of the certificate of need application in question.

(P) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;

(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.

(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

(R) Except as otherwise provided in division (T) of this section, and until the termination date specified in section 3702.511 of the Revised Code, "reviewable activity" means any of the following:

(1) The addition by any person of any of the following health services, regardless of the amount of operating costs or capital expenditures:

(a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity;

(b) A cardiac catheterization service;

(c) An open-heart surgery service;

(d) Any new, experimental medical technology that is designated by rule of the public health council.

(2) The acceptance of high-risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995;

(3)(a) The establishment, development, or construction of a new health care facility other than a new long-term care facility or a new hospital;

(b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital;

(c) The relocation of hospital beds, other than long-term care, perinatal, or pediatric intensive care beds, into or out of a rural area.

(4)(a) The replacement of an existing hospital;

(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.

(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after the effective date of this amendment, of five million dollars or more, not including expenditures for equipment, staffing, or operational costs. For purposes of division (R)(5)(a) of this section, a capital expenditure is obligated:

(i) When a contract enforceable under Ohio law is entered into for the construction, acquisition, lease, or financing of a capital asset;

(ii) When the governing body of a hospital takes formal action to commit its own funds for a construction project undertaken by the hospital as its own contractor;

(iii) In the case of donated property, on the date the gift is completed under applicable Ohio law.

(b) The renovation of a hospital obstetric or newborn care unit or freestanding birthing center that involves a capital expenditure of five million dollars or more, not including expenditures for equipment, staffing, or operational costs.

(6) Any change in the health care services, bed capacity, or site, or any

other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need was granted, if the change is made prior to the date the activity for which the certificate was issued ceases to be a reviewable activity;

(7) Any of the following changes in perinatal bed capacity or pediatric intensive care bed capacity:

(a) An increase in bed capacity;

(b) A change in service or service-level designation of newborn care beds or obstetric beds in a hospital or freestanding birthing center, other than a change of service that is provided within the service-level designation of newborn care or obstetric beds as registered by the department of health;

(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing center or the relocation of beds among buildings of a hospital or freestanding birthing center at the same site.

(8) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need;

(9) Any transfer of a certificate of need issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of a certificate of need issued prior to that date upon completion of the project, and any transfer of the controlling interest in an entity that holds a certificate of need issued prior to that date. However, the transfer of a certificate of need issued prior to that date or agreement to transfer such a certificate of need from the person to whom the certificate of need was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for the purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(10)(a) The acquisition by any person of any of the following medical equipment, regardless of the amount of operating costs or capital expenditure:

(i) A cobalt radiation therapy unit;

(ii) A linear accelerator;

(iii) A gamma knife unit.

(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical equipment includes the sum of the following:

(i) The greater of its fair market value or the cost of its lease or purchase;

(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.

(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.

(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:

(1) The establishment, development, or construction of a new long-term care facility;

(2) The replacement of an existing long-term care facility;

(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;

(4) Any of the following changes in long-term care bed capacity:

(a) An increase in bed capacity;

(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;

(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.

(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;

(6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds;

(7) Any transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of such a certificate of need upon completion of the project, and any transfer of the controlling interest in an entity that holds such a certificate of need. However, the transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, or agreement to transfer such a certificate of need from the person to whom the certificate was issued to an affiliated or related person does not constitute a reviewable transfer of a

certificate of need for purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(T) "Reviewable activity" does not include any of the following activities:

- (1) Acquisition of computer hardware or software;
- (2) Acquisition of a telephone system;
- (3) Construction or acquisition of parking facilities;
- (4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;
- (5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;
- (6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;
- (7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;
- (8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;
- (9) Construction, repair, or renovation of bathroom facilities;
- (10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;
- (11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (T)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.

(12) Removal of asbestos from a health care facility.

Only that portion of a project that meets the requirements of division (T) of this section is not a reviewable activity.

(U) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four

thousand persons were admitted during the most recent calendar year.

(V) "Children's hospital" means any of the following:

(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (V)(1) of this section.

(W) "Long-term care facility" means any of the following:

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

(X) "Long-term care bed" means a bed in a long-term care facility.

(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center.

(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.

(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.

(BB)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin No. 93-17, June 30, 1993, and its attachments.

(2) "Rural area" means any area of this state not located within a metropolitan statistical area.

Sec. 3719.13. Prescriptions, orders, and records, required by Chapter 3719. of the Revised Code, and stocks of dangerous drugs and controlled substances, shall be open for inspection only to federal, state, county, and municipal officers, and employees of the state board of pharmacy whose duty it is to enforce the laws of this state or of the United States relating to controlled substances. Such prescriptions, orders, records, and stocks shall be open for inspection by employees of the state medical board for purposes of enforcing Chapter 4731. of the Revised Code and employees of the board of nursing for purposes of enforcing Chapter 4723. of the Revised Code. No person having knowledge of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

Sec. 3721.031. (A) The director of health may investigate any complaint ~~he~~ the director receives concerning a home.

(1) Except as required by court order, as necessary for the administration or enforcement of any statute relating to homes, or as provided in division (C) of this section, the director and any employee of the department of health shall not release any of the following information without the permission of the individual or of ~~his~~ the individual's legal representative:

(a) The identity of any patient or resident;

(b) The identity of any individual who submits a complaint about a home;

(c) The identity of any individual who provides the director with information about a home and has requested confidentiality;

(d) Any information that reasonably would tend to disclose the identity of any individual described in division (A)(1)(a) to (c) of this section.

(2) An agency or individual to whom the director is required, by court order or for the administration or enforcement of a statute relating to homes, to release information described in division (A)(1) of this section shall not release the information without the permission of the individual who would be or would reasonably tend to be identified, or of ~~his~~ the individual's legal

representative, unless the agency or individual is required to release it by division (C) of this section, by court order, or for the administration or enforcement of a statute relating to homes.

(B) Except as provided in division (C) of this section, any record that identifies an individual described in division (A)(1)(a) to (c) of this section or that reasonably would tend to identify such an individual is not a public record for the purposes of section 149.43 of the Revised Code, and is not subject to inspection and copying under section 1347.08 of the Revised Code.

(C) If the director, or an agency or individual to whom the director is required by court order or for administration or enforcement of a statute relating to homes to release information described in division (A)(1) of this section, uses information in any administrative or judicial proceeding against a home that reasonably would tend to identify an individual described in division (A)(1)(a) to (c) of this section, the director, agency, or individual shall disclose that information to the home. However, the director, agency, or individual shall not disclose information that directly identifies an individual described in divisions (A)(1)(a) to (c) of this section, unless the individual is to testify in the proceedings.

(D) No person shall knowingly register a false complaint about a home with the director, or knowingly swear or affirm the truth of a false complaint, when the complaint is made for the purpose of incriminating another.

(E) An individual who in good faith submits a complaint under this section or any other provision of the Revised Code regarding a violation of this chapter, or participates in any investigation, administrative proceeding, or judicial proceeding resulting from the complaint, has the full protection against retaliatory action provided by sections 4113.51 to 4113.53 of the Revised Code.

Sec. 3721.34. For purposes of implementing sections 3721.28 to 3721.33 of the Revised Code, the director of health may advise, consult or cooperate with, or enter into agreements with ~~the board of nursing, other~~ state agencies ~~and~~, political subdivisions, the federal government, or any person. The director may enter into agreements that provide for ~~the board of nursing or another~~ a state agency to do any of the following:

(A) Approve or reapprove, in accordance with division (A) of section 3721.31 of the Revised Code and the rules adopted by the director under section 3721.30 of the Revised Code, competency evaluation programs and training and competency evaluation programs, or, in accordance with rules adopted by the director under section 3721.30 of the Revised Code,

programs to train instructors and coordinators for training and competency evaluation programs and evaluators for competency evaluation programs, and to perform any functions related to approval and reapproval of those programs including any of the following:

- (1) Conduct adjudications under Chapter 119. of the Revised Code;
  - (2) Conduct the inspections and examinations described in division (A)(5) or (D) of section 3721.31 of the Revised Code;
  - (3) Deny, suspend, or revoke approval or reapproval, in accordance with Chapter 119. of the Revised Code, of programs that are not in compliance with sections 3721.30 and 3721.31 of the Revised Code and the rules adopted thereunder;
  - (4) Collect the fees described in division (G) of section 3721.31 of the Revised Code in the amounts prescribed in rules adopted by the director of health under section 3721.30 of the Revised Code and deposit them into the nurse aide training fund created by section 3721.33 of the Revised Code.
- (B) Approve or deny, in accordance with Chapter 119. of the Revised Code, the requests described in division (B)(2) of section 3721.31 of the Revised Code.

Sec. 3727.01. As used in this section, "health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the following:

- (A) Provides or otherwise makes available to enrolled participants health care services including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive service, and out-of-area coverage;
- (B) Is compensated, except for copayments, for the provision of basic health care services to enrolled participants by a payment that is paid on a periodic basis without regard to the date the health care services are provided and that is fixed without regard to the frequency, extent, or kind of health service actually provided;
- (C) Provides physician services primarily in either of the following ways:
  - (1) Directly through physicians who are either employees or partners of the organization;
  - (2) Through arrangements with individual physicians or one or more groups of physicians organized on a group-practice or individual-practice basis.

As used in this chapter, "hospital" means an institution classified as a

hospital under section 3701.07 of the Revised Code in which are provided to inpatients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than twenty-four hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under Chapter 3721. of the Revised Code, a health care facility operated by the department of mental health or the department of mental retardation and developmental disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where patients are not regularly admitted as inpatients. "Hospital" also does not include an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division ~~(G)~~(E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

Sec. 4113.512. The employer of an employee whose duties include providing health care or supervising an individual who provides health care may make information available to the employee explaining the employee's duty to make reports pursuant to section 4113.52 of the Revised Code, as well as the employee's opportunity to make reports regarding patient safety pursuant to section 3701.91 of the Revised Code.

Sec. ~~4723.02~~ 4723.01. As used in this chapter:

(A) "Registered nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a registered nurse.

(B) "Practice of nursing as a registered nurse" means providing to individuals and groups nursing care requiring specialized knowledge, judgment, and skill derived from the principles of biological, physical, behavioral, social, and nursing sciences. Such nursing care includes:

- (1) Identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen;
- (2) Executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions;
- (3) Assessing health status for the purpose of providing nursing care;
- (4) Providing health counseling and health teaching;
- (5) Administering medications, treatments, and executing regimens

authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice;

(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.

(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities.

(D) "Assessing health status" means the collection of data through nursing assessment techniques, which may include interviews, observation, and physical evaluations for the purpose of providing nursing care.

(E) "Licensed practical nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a licensed practical nurse.

(F) "The practice of nursing as a licensed practical nurse" means providing to individuals and groups nursing care requiring the application of basic knowledge of the biological, physical, behavioral, social, and nursing sciences at the direction of a licensed physician, dentist, podiatrist, optometrist, chiropractor, or registered nurse. Such nursing care includes:

(1) Observation, patient teaching, and care in a diversity of health care settings;

(2) Contributions to the planning, implementation, and evaluation of nursing;

(3) Administration of medications and treatments authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, except that administration of intravenous therapy shall be performed only in accordance with section 4723.17 or 4723.171 of the Revised Code. Medications may be administered by a licensed practical nurse upon proof of completion of a course in medication administration approved by the board of nursing.

(4) Administration to an adult of intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, on the condition that the licensed practical nurse is authorized under section 4723.17 or 4723.171 of the Revised Code to perform intravenous therapy and performs intravenous therapy only in accordance with ~~4723.17~~ those sections.

(G) "Certified registered nurse anesthetist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified registered nurse anesthetist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(H) "Clinical nurse specialist" means a registered nurse who holds a

valid certificate of authority issued under this chapter that authorizes the practice of nursing as a clinical nurse specialist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(I) "Certified nurse-midwife" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse-midwife in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(J) "Certified nurse practitioner" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse practitioner in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(K) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(L) "Collaboration" or "collaborating" means the following:

(1) In the case of a clinical nurse specialist, except as provided in division (L)(3) of this section, or a certified nurse practitioner, that one or more podiatrists acting within the scope of practice of podiatry in accordance with section 4731.51 of the Revised Code and with whom the nurse has entered into a standard care arrangement or one or more physicians with whom the nurse has entered into a standard care arrangement are continuously available to communicate with the clinical nurse specialist or certified nurse practitioner either in person or by radio, telephone, or other form of telecommunication;

(2) In the case of a certified nurse-midwife, that one or more physicians with whom the certified nurse-midwife has entered into a standard care arrangement are continuously available to communicate with the certified nurse-midwife either in person or by radio, telephone, or other form of telecommunication;

(3) In the case of a clinical nurse specialist who practices the nursing specialty of mental health or psychiatric mental health without being authorized to prescribe drugs and therapeutic devices, that one or more physicians are continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication.

(M) "Supervision," as it pertains to a certified registered nurse anesthetist, means that a the certified registered nurse anesthetist is under the direction of a podiatrist acting within the podiatrist's scope of practice in accordance with section 4731.51 of the Revised Code, a dentist acting within the dentist's scope of practice in accordance with Chapter 4715. of

the Revised Code, or a physician, and, when administering anesthesia, the certified registered nurse anesthetist is in the immediate presence of the podiatrist, dentist, or physician.

(N) "Standard care arrangement," except as it pertains to an advanced practice nurse, means a written, formal guide for planning and evaluating a patient's health care that is developed by one or more collaborating physicians or podiatrists and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and meets the requirements of section 4723.431 of the Revised Code.

(O) "Advanced practice nurse," until three years and eight months after ~~this amendment~~ May 17, 2000, means a registered nurse who is approved by the board of nursing under section 4723.55 of the Revised Code to practice as an advanced practice nurse.

~~(Q)~~(P) "Dialysis care" means the care and procedures that a dialysis technician is authorized to provide and perform, as specified in section 4723.72 of the Revised Code.

~~(R)~~(Q) "Dialysis technician" means an individual who holds a current, valid certificate or temporary certificate issued under this chapter that authorizes the individual to practice as a dialysis technician in accordance with section 4723.72 of the Revised Code.

~~Sec. 4723.04~~ 4723.02. ~~The state nurses' board shall be known as the board of nursing. The board~~ shall assume and exercise all the powers and perform all the duties conferred and imposed on it by this chapter. ~~The~~

The board shall consist of thirteen members who shall be citizens of the United States and residents of Ohio. Eight members shall be registered nurses, each of whom shall be a graduate of an approved program of nursing education that prepares persons for licensure as a registered nurse, shall hold a currently active license issued under this chapter to practice nursing as a registered nurse, and shall have been actively engaged in the practice of nursing as a registered nurse for the five years immediately preceding the member's initial appointment to the board. Of the eight members who are registered nurses, at least one shall hold a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. Four members shall be licensed practical nurses, each of whom shall be a graduate of an approved program of nursing education that prepares persons for licensure as a practical nurse, shall hold a currently active license issued under this chapter to practice nursing as a licensed practical nurse, and shall have been actively engaged in the practice of nursing as a licensed practical nurse for the five

years immediately preceding the member's initial appointment to the board. One member shall represent the interests of consumers of health care. Neither this member nor any person in the member's immediate family shall be a member of or associated with a health care provider or profession or shall have a financial interest in the delivery or financing of health care. Representation of nursing service and nursing education and of the various geographical areas of the state shall be considered in making appointments.  
~~As~~

As the term of any member of the board expires, a successor shall be appointed who has the qualifications the vacancy requires. Terms of office shall be for ~~five~~ four years, commencing on the first day of January and ending on the thirty-first day of December. ~~Each~~

A current or former board member who has served not more than one full term or one full term and not more than thirty months of another term may be reappointed for one additional term.

Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. The term of a member shall expire if the member ceases to meet any requirement of this section for the member's position on the board. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. ~~A person who has served a full term on the board or more than thirty months of the remainder of the term of a predecessor shall not be eligible for a subsequent appointment to the board.~~ Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. ~~Nursing~~

Nursing organizations of this state may each submit to the governor the names of not more than five nominees for each position to be filled on the board. From the names so submitted or from others, at the governor's discretion, the governor with the advice and consent of the senate shall make such appointments.

Any member of the board may be removed by the governor for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct, after a hearing as provided in Chapter 119. of the Revised Code. ~~Seven~~

Seven members of the board including at least four registered nurses and at least one licensed practical nurse shall at all times constitute a quorum.

Each member of the board shall receive an amount fixed pursuant to

division (J) of section 124.15 of the Revised Code for each day in attendance at board meetings and in discharge of official duties, and in addition thereto, necessary expense incurred in the performance of such duties.

The board shall elect one of its nurse members as president and one as vice-president. The board shall elect one of its registered nurse members to serve as the supervising member for disciplinary matters.

The board may establish advisory groups to serve in consultation with the board or the executive director. Each advisory group shall be given a specific charge in writing and shall report to the board. Members of advisory groups shall serve without compensation but shall receive their actual and necessary expenses incurred in the performance of their official duties.

Sec. 4723.021. In the absence of fraud or bad faith, the board of nursing, a current or former board member, an agent of the board, a representative of the board, an employee of the board, or an entity that provides services related to remediation under the board's practice intervention and improvement program shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If a member, agent, representative, employee, or entity asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the requestor's official duties, and the request is made in writing at a reasonable time before trial and the requestor cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the requestor's defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay any part of a claim or judgment that is for punitive or exemplary damages.

Sec. 4723.03. (A) No person shall engage in the practice of nursing as a registered nurse, ~~hold herself or himself out~~ represent the person as being a registered nurse, or use the title "registered nurse," the initials "R.N.," or any other title implying that the person is a registered nurse, for a fee, salary, or other consideration, or as a volunteer, without holding a current, valid license as a registered nurse under this chapter.

(B) No person shall engage in the practice of nursing as a licensed practical nurse, ~~hold herself or himself out~~ represent the person as being a licensed practical nurse, or use the title "licensed practical nurse," the initials "L.P.N.," or any other title implying that the person is a licensed practical nurse, for a fee, salary, or other consideration, or as a volunteer, without holding a current, valid license as a practical nurse under this chapter.

(C) No person shall use the titles or initials "graduate nurse," "G.N.," "professional nurse," "P.N.," "graduate practical nurse," "G.P.N.," "practical nurse," "P.N.," "trained nurse," "T.N.," or any other statement, title, or initials that would imply or represent to the public that the person is authorized to practice nursing in this state, except as follows:

(1) A person licensed under this chapter to practice nursing as a registered nurse may use that title and the initials "R.N.";

(2) A person licensed under this chapter to practice nursing as a licensed practical nurse may use that title and the initials "L.P.N.";

(3) A person authorized under this chapter to practice nursing as a certified registered nurse anesthetist may use that title, the initials "C.R.N.A." or "N.A.," and any other title or initials approved by the board of nursing;

(4) A person authorized under this chapter to practice nursing as a clinical nurse specialist may use that title, the initials "C.N.S.," and any other title or initials approved by the board;

(5) A person authorized under this chapter to practice nursing as a certified nurse-midwife may use that title, the initials "C.N.M.," and any other title or initials approved by the board;

(6) A person authorized under this chapter to practice nursing as a certified nurse practitioner may use that title, the initials "C.N.P.," and any other title or initials approved by the board.

(D) No person shall employ a person not licensed as a registered nurse under this chapter to engage in the practice of nursing as a registered nurse. No person shall employ a person not licensed as a practical nurse under this chapter to engage in the practice of nursing as a licensed practical nurse.

(E) No person shall sell or fraudulently obtain or furnish any nursing diploma, license, certificate, renewal, or record, or aid or abet such acts.

Sec. 4723.06. (A) The board of nursing shall:

(1) Administer and enforce the provisions of this chapter, including the taking of disciplinary action for violations of section 4723.28 of the Revised Code, any other provisions of this chapter, or rules ~~promulgated~~ adopted under ~~Chapter 119. of the Revised Code~~ this chapter;

(2) ~~Examine applicants~~ develop criteria that an applicant must meet to be eligible to sit for the examination for licensure to practice as a registered nurse or as a licensed practical nurse;

(3) Issue and renew nursing licenses and dialysis technician certificates, as provided in this chapter;

(4) Define the minimum curricula and standards for educational programs of the schools of professional nursing and schools of practical

rsing in this state;

(5) Survey, inspect, and grant full approval to prelicensure nursing education programs that meet the standards established by rules adopted under section 4723.07 of the Revised Code. Prelicensure nursing education programs include, but are not limited to, associate degree, baccalaureate degree, diploma, and doctor of nursing programs leading to initial licensure to practice nursing as a registered nurse and practical nurse programs leading to initial licensure to practice nursing as a licensed practical nurse.

(6) Grant conditional approval, by a vote of a quorum of the board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. If the board does not grant conditional approval, it shall hold ~~a hearing~~ an adjudication under Chapter 119. of the Revised Code to consider conditional approval of the program. If the board grants conditional approval, at its first meeting after the first class has completed the program, the board shall determine whether to grant full approval to the program. If the board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the board shall hold ~~a hearing~~ an adjudication under Chapter 119. of the Revised Code to consider the program. Based on results of the ~~hearing~~ adjudication, the board may continue or withdraw conditional approval, or grant full approval.

(7) Place on provisional approval, for a period of time specified by the board, a program that has ceased to meet and maintain the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. At the end of the period, the board shall reconsider whether the program meets the standards and shall grant full approval if it does. If it does not, the board may withdraw approval, pursuant to ~~a hearing~~ an adjudication under Chapter 119. of the Revised Code.

(8) Approve continuing nursing education programs and courses under standards established in rules adopted under section 4723.07 of the Revised Code;

(9) Approve peer support programs, under rules adopted under section 4723.07 of the Revised Code, for nurses and for dialysis technicians;

(10) Establish ~~the alternative a~~ program for monitoring chemical dependency in accordance with section 4723.35 of the Revised Code;

(11) Establish the practice intervention and improvement program in accordance with section 4723.282 of the Revised Code;

(12) Issue and renew certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(13) Approve under section 4723.46 of the Revised Code national certifying organizations for examination and certification of certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

(14) Issue and renew certificates to prescribe in accordance with sections 4723.48 and ~~4723.484~~ 4723.485 of the Revised Code;

(15) Grant approval to the planned classroom and clinical study required by section 4723.483 of the Revised Code to be eligible for a certificate to prescribe;

(16) Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means;

(17) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the enforcement of this chapter;

~~(18)~~ (18) Make an annual report to the governor, which shall be open for public inspection;

~~(18)~~(19) Maintain and have open for public inspection the following records:

(a) A record of all its meetings and proceedings;

(b) A file of ~~applicants for and~~ holders of nursing licenses, registrations, and certificates granted under this chapter and dialysis technician certificates granted under this chapter. The file shall be maintained in the form prescribed by rule of the board.

(c) A list of prelicensure nursing education programs approved by the board;

(d) A list of approved peer support programs for nurses and dialysis technicians.

(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under ~~division (F) of~~ section 4723.07 of the Revised Code to approve continuing nursing education programs and courses. Persons so authorized shall approve continuing nursing education programs and courses in accordance with standards established in rules adopted under ~~division (E)~~

of section 4723.07 of the Revised Code.

Persons seeking authorization to approve continuing nursing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing nursing education programs and courses shall expire ~~at the end of the two-year period beginning the date of issuance,~~ and may be renewed by the board according to the schedule established in rules adopted under section 4732.07 of the Revised Code.

Sec. 4723.061. ~~The~~ This chapter does not require the board of nursing ~~may enter into agreements with the director of health under section 3721.34 of the Revised Code to assist the director in implementing sections 3721.28 to 3721.34 of the Revised Code. Any money received by the board from the department of health pursuant to such agreements shall be deposited in the nurse aide fund, which is hereby created in the state treasury. The board shall use the fund to pay the costs it incurs in carrying out such agreements~~ to act on minor violations of this chapter or the rules adopted under it, if the violations are committed by individuals licensed under this chapter and the board determines that the public is adequately protected by issuing a notice or warning to the alleged offender.

Sec. 4723.07. In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt and may amend and rescind rules that establish all of the following:

(A) ~~Providing~~ Provisions for ~~its~~ the board's government and control of its actions and business affairs;

(B) ~~Establishing minimum~~ minimum curricula and standards for nursing education programs that prepare graduates to ~~take licensing examinations, be licensed under this chapter and establishing~~ procedures for granting, renewing, and withdrawing approval of those programs;

(C) ~~Establishing requirements~~ Criteria that applicants for licensure must meet to be ~~permitted~~ eligible to take ~~licensing examinations;~~

~~(D) Governing the administration and conduct of examinations for licensure to practice nursing as a registered nurse or as a licensed practical nurse;~~

(D) Standards and procedures for renewal of the licenses and certificates issued by the board;

(E) ~~Establishing standards~~ Standards for approval of continuing nursing education programs and courses for registered nurses, licensed practical nurses, certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners. The standards may provide for approval of continuing nursing education programs and

courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service.

~~(F) Establishing standards~~ Standards that persons must meet to be authorized by the board to approve continuing nursing education programs and courses and a schedule ~~to have~~ by which that authorization expires and may be renewed;

~~(G) Establishing requirements~~ requirements, including continuing education requirements, for restoring inactive nursing licenses and dialysis technician certificates ~~issued under this chapter~~ and nursing licenses and dialysis technician certificates that have lapsed through failure to renew;

~~(H) Establishing requirements for issuing endorsements of nursing licenses and dialysis technician certificates issued by another state;~~

~~(I) Governing conditions~~ Conditions that may be imposed for reinstatement of a nursing license or dialysis technician certificate ~~issued under this chapter~~ following action taken under sections 2301.373, 4723.28, and 4723.281 of the Revised Code resulting in a suspension from practice;

~~(J) Establishing standards~~ (I) Standards for approval of peer support programs for persons who hold a nursing license or dialysis technician certificate ~~issued under this chapter~~;

~~(K) Establishing requirements~~ (J) Requirements for board approval of courses in medication administration by licensed practical nurses;

~~(L) Establishing criteria for specialty certification of registered nurses;~~

~~(M) Establishing criteria~~ (K) Criteria for evaluating the qualifications of an applicant ~~who is applying for a license by endorsement to practice nursing as a registered nurse or licensed practical nurse or for a certificate of authority issued under division (E) of section 4723.41 of the Revised Code, or a dialysis technician certificate by the board's endorsement of the applicant's authority to practice issued by the licensing agency of another state;~~

~~(N) Establishing universal~~ (L) Universal blood and body fluid precautions that shall be used by each person holding a nursing license or dialysis technician certificate issued under this chapter who performs exposure-prone invasive procedures. The rules shall define and establish requirements for universal blood and body fluid precautions that include the following:

- (1) Appropriate use of hand washing;
- (2) Disinfection and sterilization of equipment;
- (3) Handling and disposal of needles and other sharp instruments;

(4) Wearing and disposal of gloves and other protective garments and devices.

~~(O) Establishing standards~~ (M) Standards and procedures for approving certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, and for renewal of those certificates;

~~(P) Establishing quality~~ (N) Quality assurance standards for certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

~~(Q) Establishing additional~~ (O) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;

~~(R) Establishing continuing~~ (P) Continuing education standards for clinical nurse specialists who are exempt under division (C) of section 4723.41 of the Revised Code from the requirement of having passed a certification examination;

(Q) For purposes of division (B)(31) of section 4723.28 of the Revised Code, the actions, omissions, or other circumstances that constitute failure to establish and maintain professional boundaries with a patient.

~~Subject to Chapter 119. of the Revised Code, the~~ The board may adopt other rules necessary to carry out the provisions of this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4723.08. (A) The board of nursing may impose fees not to exceed the following limits:

(1) For application for licensure by examination to practice nursing as a registered nurse or as a licensed practical nurse, fifty dollars;

(2) For application for licensure by endorsement to practice nursing as a registered nurse or as a licensed practical nurse, fifty dollars;

(3) For application for a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;

(4) For application for a temporary dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(5) For application for a full dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(6) For application for a certificate to prescribe, fifty dollars;

~~(5)(7)~~ (7) For verification of a nursing license, certificate of authority, or dialysis technician certificate to another jurisdiction, fifteen dollars;

~~(6)(7)(8)~~ For providing a replacement copy of a nursing license, certificate of authority, or dialysis technician certificate, fifteen dollars;

~~(7)(8)(9)~~ For biennial renewal of a nursing license, thirty-five dollars;

~~(8)(9)~~ ~~For~~ (10) Except as provided in division (C) of this section, for biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, ~~one hundred~~ eighty-five dollars;

~~(9)(11)~~ For renewal of a certificate to prescribe, fifty dollars;

~~(10)(10)(12)~~ For biennial renewal of a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

~~(11)(13)~~ For processing a late application for renewal of a nursing license, certificate of authority, or dialysis technician certificate, fifty dollars;

~~(11)(12)(14)~~ For application for authorization to approve continuing nursing education programs and courses from an applicant accredited by a national accreditation system for nursing, five hundred dollars;

~~(12)(13)(15)~~ For application for authorization to approve continuing nursing education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;

~~(13)(14)(16)~~ For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;

~~(15)(17)~~ For application for approval to operate a dialysis training program, the amount specified in rules adopted under section 4723.79 of the Revised Code;

~~(16)(14)(18)~~ For reinstatement of a lapsed license or certificate of authority, one hundred dollars;

~~(19)~~ For written verification of a nursing license, certificate of authority, or dialysis technician certificate, other than verification to another jurisdiction, five dollars. The board may contract for services pertaining to this verification process and the collection of the fee, and may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.

(B) Each quarter, for purposes of transferring funds under section 4743.05 of the Revised Code to the nurse education assistance fund created in section 3333.28 of the Revised Code, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount

equal to that number times five dollars.

(C) The fee for biennial renewal of a certificate of authority to practice nursing as a certified nurse-midwife, certified registered nurse anesthetist, certified nurse practitioner, or clinical nurse specialist that expires on or before August 31, 2005, is one hundred dollars.

Sec. ~~4723.39~~ 4723.081. The board of nursing, subject to the approval of the controlling board, may establish fees in excess of the amounts provided by section 4723.08 of the Revised Code, provided that such fees do not exceed those amounts by more than fifty per cent.

Sec. ~~4723.31~~ 4723.082. ~~Except as provided in division (A)(4) of section 3721.34 and section 4723.061 of the Revised Code, all~~ All receipts of the board of nursing, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the board president or executive director, or both, as authorized by the board.

Sec. 4723.09. (A) An application for licensure by examination to practice as a registered nurse or as a licensed practical nurse shall be submitted to the board of nursing in the form prescribed by rules of the board. The application shall include evidence that the applicant has completed requirements of a nursing education program approved by the board or approved by another jurisdiction's board that regulates nurse licensure. The application also shall include any other information required by rules of the board. The application shall be accompanied by the application fee required by section 4723.08 of the Revised Code. ~~If the board determines that the applicant meets the requirements to take the examination, it shall admit the applicant to the examination.~~

The board shall grant a license to practice nursing as a registered nurse or as a licensed practical nurse if the applicant passes the examination accepted by the board under section 4723.10 of the Revised Code and the board determines that the applicant has not committed any act that is grounds for disciplinary action under section 2301.373 or 4723.28 of the Revised Code, or determines that an applicant who has committed such acts has made restitution or has been rehabilitated, or both. The board is not required to afford ~~a hearing~~ an adjudication to an individual to whom it has refused to grant a license because of that individual's failure to pass the examination.

(B) An application for license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse shall be submitted to the board in the form prescribed by rules of the board and shall be accompanied by the application fee required by section 4723.08 of the Revised Code. The

application shall include evidence that the applicant holds a license in good standing in another jurisdiction granted after passing an examination approved by the board of that jurisdiction that is equivalent to the examination requirements under this chapter for a license to practice nursing as a registered nurse or licensed practical nurse, and shall include other information required by rules of the board of nursing. The board shall grant a license by endorsement if the applicant is licensed or certified by another jurisdiction and the board determines, pursuant to rules established under section 4723.07 of the Revised Code, that all of the following apply:

(1) The educational preparation of the applicant is substantially similar to the minimum curricula and standards for nursing education programs established by the board under section 4723.07 of the Revised Code;

(2) The examination, at the time it is successfully completed, is equivalent to the examination requirements in effect at that time for applicants who ~~successfully completed the~~ were licensed by examination in this state;

(3) The applicant has not committed any act that is grounds for disciplinary action under section 2301.373, 4723.28, or 4723.281 of the Revised Code, or determines that an applicant who has committed such acts has made restitution or has been rehabilitated, or both.

The board may grant a nonrenewable temporary permit to practice nursing as a registered nurse or as a licensed practical nurse to an applicant for license by endorsement if the board is satisfied by the evidence that the applicant holds a current, active license in good standing in another jurisdiction. The temporary permit shall expire at the earlier of one hundred twenty days after issuance or upon the issuance of a license by endorsement.

~~Sec. 4723.051~~ 4723.10. The ~~With respect to individuals applying for licensure by examination, the board of nursing, in administering examinations for licensure under this chapter, may make use of~~ shall accept all or any part of the licensure examination of the national council of state boards of nursing or any other national standardized nursing examination that ~~determines the board considers to be an appropriate measure of~~ whether a person is competent to commence practicing nursing as a registered nurse or as a licensed practical nurse. ~~The~~ If the board incurs any cost in its acceptance of an examination under this section or in making the accepted examination available to applicants, the board may require applicants for licensure by examination to ~~practice nursing as a registered nurse or as a licensed practical nurse to pay the application fee required by section 4723.08 of the Revised Code and to pay for any related materials from the organization providing the examination~~ pay an amount sufficient to cover

the cost incurred.

Sec. 4723.15. (A) A certificate of registration to practice professional nursing as a registered nurse issued by the state nurses board or the board of nursing education and nurse registration under former provisions of this chapter or by the nurses' examining committee of the state medical board as provided in former sections 1295-01 to 1295-20 and 1347 et seq. of the General Code shall remain valid and shall confer the same privileges and impose the same responsibilities and requirements as a license issued by the board of nursing under this chapter on or after ~~the effective date of this section~~ June 14, 1988.

(B) A license to practice practical nursing as a licensed practical nurse issued by the board of nursing education and nurse registration under former provisions of this chapter shall remain valid and shall confer the same privileges and impose the same responsibilities and requirements as a license issued by the board of nursing under this chapter on or after ~~the effective date of this section~~ June 14, 1988.

(C) Any person who on ~~the effective date of this section~~ June 14, 1988, holds a current, valid certificate or license to practice nursing as a registered nurse or as a licensed practical nurse in this state shall, for the purposes of this chapter, be deemed to hold a license.

(D) Any licensed practical nurse who on ~~the effective date of this section~~ June 14, 1988, holds proof of successful completion of a course in medication administration approved by the board of nursing shall be considered to be qualified to administer medication as defined in division (F)(3) of section ~~4723.02~~ 4723.01 of the Revised Code.

Sec. 4723.171. (A) A licensed practical nurse may perform on any person any of the intravenous therapy procedures specified in division (B) of this section without receiving authorization to perform intravenous therapy from the board of nursing under section ~~4723.48~~ 4723.17 of the Revised Code, if both of the following apply:

(1) The licensed practical nurse acts at the direction of a registered nurse or a licensed physician, dentist, optometrist, or podiatrist and the registered nurse, physician, dentist, optometrist, or podiatrist is on the premises where the procedure is to be performed or accessible by some form of telecommunication.

(2) The licensed practical nurse can demonstrate the knowledge, skills, and ability to perform the procedure safely.

(B) The intravenous therapy procedures that a licensed practical nurse may perform pursuant to division (A) of this section are limited to the following:

- (1) Verification of the type of peripheral intravenous solution being administered;
- (2) Examination of a peripheral infusion site and the extremity for possible infiltration;
- (3) Regulation of a peripheral intravenous infusion according to the prescribed flow rate;
- (4) Discontinuation of a peripheral intravenous device at the appropriate time;
- (5) Performance of routine dressing changes at the insertion site of a peripheral venous or arterial infusion, peripherally inserted central catheter infusion, or central venous pressure subclavian infusion.

Sec. 4723.24. (A) All active licenses issued under this chapter shall be renewed biennially according to a schedule established by the board of nursing. The board shall ~~mail~~ provide an application for renewal to every holder of an active license, except when the board is aware that an individual is ineligible for license renewal for any reason, including pending criminal charges in this state or another jurisdiction, failure to comply with a disciplinary order from the board or the terms of a consent agreement entered into with the board, failure to pay fines or fees owed to the board, or failure to provide on the board's request documentation of having completed the continuing nursing education requirements specified in division (C) of this section.

If the board provides a renewal application by mail, the application shall be addressed to the last known post-office address of the holder and mailed before the date specified in the board's schedule. Failure of the holder to receive an application for renewal from the board shall not excuse the holder from the requirements contained in this section. ~~The~~

The license holder shall complete the renewal form and return it to the treasurer of state with the renewal fee required by section 4723.08 of the Revised Code on or before the date specified by the board. The license holder shall report any conviction, plea, or judicial finding regarding a criminal offense that constitutes grounds for denial of a license the board to impose sanctions under section 4723.28 of the Revised Code of which the holder has been found guilty or to which the holder has entered a plea of guilty or no contest since the submission of the holder's holder last preceding submitted an application to the board. ~~The~~

The treasurer shall immediately forward the renewal application to the board, and on receipt of the renewal application, the board shall verify that the applicant meets the renewal requirements and shall renew the license for the following two-year period. ~~If~~

If a renewal application that meets the renewal requirements is submitted after the date specified in the board's schedule, but before expiration of the license, the board shall grant a renewal upon payment of the late renewal fee authorized under section 4723.08 of the Revised Code.

(B) Every license holder shall give written notice to the board of any change of name or address within thirty days of the change. The board shall require the holder to document a change of name in a manner acceptable to the board.

(C)(1) Except in the case of a first renewal after licensure by examination, ~~effective January 1, 1992~~, to be eligible for renewal of an active license to practice nursing as a registered nurse or licensed practical nurse, each individual who holds an active license ~~must~~ shall, in each two-year period specified by the board, complete continuing nursing education as follows:

~~(A)~~(a) For renewal of a license that was issued for a two-year renewal period, twenty-four hours of continuing nursing education;

~~(B)~~(b) For renewal of a license that was issued for less than a two-year renewal period, the number of hours of continuing nursing education specified by the board in rules adopted in accordance with Chapter 119. of the Revised Code;

(c) Of the hours of continuing nursing education completed in any renewal period, at least one hour of the education must be directly related to the statutes and rules pertaining to the practice of nursing in this state.

(2) The board shall adopt rules establishing the procedure for ~~an applicant~~ a license holder to certify to the board completion of the required continuing nursing education. ~~Continuing nursing education~~ The board may conduct a random sample of license holders and require that the license holders included in the sample submit satisfactory documentation of having completed the requirements for continuing nursing education. On the board's request, a license holder included in the sample shall submit the required documentation.

(3) An educational activity may be applied to meet this toward meeting the continuing nursing education requirement only if it is obtained through a program or course approved by the board or a person authorized by the board has authorized to approve continuing nursing education programs and courses. On request of the board, an applicant or license holder shall submit satisfactory documentation of completion of the required continuing nursing education. The

(4) The continuing education required of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified

nurse practitioner to obtain or maintain certification by a national certifying organization shall be applied toward the applicant's continuing education requirements for renewal of the applicant's a license to practice nursing as a registered nurse.

(D) Except as otherwise provided in section 4723.28 of the Revised Code, a license holder ~~of a license~~ who does not intend to practice in Ohio may send to the board written notice to that effect on or before the renewal date, and the board shall classify the license as inactive. During the period that the license is classified as inactive, the holder may not engage in the practice of nursing in Ohio and is not required to pay the renewal fee.

The holder of an inactive license or an individual who has failed to renew the individual's license may have the license restored or renewed upon meeting the requirements for restoring and renewing licenses established in rules adopted under section 4723.07 of the Revised Code.

~~Sec. 4723.25. Not later than ninety days after the effective date of this section, the~~ The board of nursing shall approve one or more continuing education courses of study that comply with divisions (E) and (F) of section 4723.07 of the Revised Code and that assist registered nurses and licensed practical nurses in recognizing the signs of domestic violence and its relationship to child abuse. Nurses are not required to take the courses.

~~Sec. 4723.28. As used in this section, "dangerous drug" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.~~

(A) The board of nursing, ~~pursuant to an adjudication conducted under Chapter 119. of the Revised Code~~ and by a vote of a quorum, may revoke or may refuse to grant a nursing license, certificate of authority, or dialysis technician certificate to a person found by the board to have committed fraud in passing an examination required to obtain the license, certificate of authority, or dialysis technician certificate or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license, certificate of authority, or dialysis technician certificate issued by the board.

(B) The board of nursing, ~~pursuant to an adjudication conducted under Chapter 119. of the Revised Code~~ and by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke ~~permanently~~, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

(1) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including nursing or practice as a dialysis technician, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(2) Engaging in the practice of nursing or engaging in practice as a dialysis technician, having failed to renew a nursing license or dialysis technician certificate issued under this chapter, or while a nursing license or dialysis technician certificate is under suspension;

(3) Conviction of, a plea of guilty to, ~~or~~ a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(4) Conviction of, a plea of guilty to, ~~or~~ a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;

(5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, ~~or~~ a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, violating any municipal, state, county, or federal drug law;

(6) Conviction of, a plea of guilty to, ~~or~~ a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;

(7) Conviction of, a plea of guilty to, ~~or~~ a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;

(8) Self-administering or otherwise taking into the body any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way not in accordance with a legal, valid prescription issued for that individual;

(9) Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs ability to practice;

(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of habitual or excessive

use of drugs, alcohol, or other chemical substances that impair the ability to practice;

(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;

(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse ~~under section 4723.02 of the Revised Code~~;

(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse ~~under section 4723.02 of the Revised Code~~;

(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;

(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;

(24) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, ~~or~~ certified nurse practitioner, or a ~~registered nurse approved as an~~ advanced practice nurse ~~under section 4723.55 of the Revised Code~~, except as provided in division (M) of this section, either of the following:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.

(25) Failure to comply with the terms and conditions of participation in the alternative chemical dependency monitoring program ~~for chemical dependency created by~~ established under section 4723.35 of the Revised Code;

(26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;

(27) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;

(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.

(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

~~(28)~~(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;

~~(29)~~(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

~~(30) Failure to return to the board a license or certificate issued under this chapter that has lapsed or been suspended or revoked.~~

~~(29)~~(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;

(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse,

licensed practical nurse, or dialysis technician in any of the following:

(a) Sexual contact, as defined in section 2907.01 of the Revised Code;

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

(D) The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code. The board may appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to conduct any hearing the board is authorized to hold under Chapter 119. of the Revised Code.

In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant or license holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of a quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section.

(E) If a criminal action is brought against a registered nurse, licensed practical nurse, or dialysis technician for an act or crime described in divisions (B)(3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall ~~hold~~ conduct an adjudication ~~hearing~~ to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the action was based. If the board determines on the basis of the ~~hearing~~ adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed the act, or if the registered nurse, licensed practical nurse, or dialysis technician fails to participate in the ~~hearing~~ adjudication, the board may take action as though the registered nurse, licensed practical nurse, or dialysis technician had been convicted of the act.

If the board takes action on the basis of a conviction, plea of ~~guilty~~, or a judicial ~~determination of guilt~~ finding as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the registered nurse, licensed

practical nurse, or dialysis technician may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall ~~hold~~ conduct an adjudicatory hearing adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the original conviction, plea, or judicial ~~determination~~ finding was based. If the board determines on the basis of the ~~hearing~~ adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request ~~a hearing~~ an adjudication, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case shall be deemed not to have occurred, sealing of the records of a conviction on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section.

~~(D) In enforcing division (B) of~~ The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(E) The board may investigate an individual's criminal background in performing its duties under this section.

(G) During the course of an investigation conducted under this section, the board may compel any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability to provide safe nursing care Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. ~~If~~

If the board finds that an individual is impaired, the board shall require the individual to submit to care, counseling, or treatment approved or designated by the board, as a condition for initial, continued, reinstated, or

renewed authority to practice. The individual shall be afforded an opportunity to demonstrate to the board that the individual can begin or resume the individual's occupation in compliance with acceptable and prevailing standards of care under the provisions of the individual's authority to practice. ~~For the purpose~~

For purposes of this section division, any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

~~(E)~~(H) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule of the board. Any person may report to the board any information the person may have that appears to show a violation of any provision of this chapter or rule of the board. In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of the report or testimony.

(I) All of the following apply under this chapter with respect to the confidentiality of information:

(1) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action, except that the board may disclose information to law enforcement officers and government entities investigating a registered nurse, licensed practical nurse, or dialysis technician or a person who may have engaged in the unauthorized practice of nursing No law enforcement officer or government entity with knowledge of any information disclosed by the board pursuant to this division shall divulge the information to any other person or government entity except for the purpose of an adjudication by a court or licensing or registration board or officer to which the person to whom the information relates is a party.

(2) If the an investigation requires a review of patient records, the investigation and proceeding shall be conducted in such a manner as to protect patient confidentiality.

(3) All hearings adjudications and investigations of the board shall be considered civil actions for the purposes of section 2305.251 of the Revised Code.

~~The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code. The board may appoint a hearing examiner as provided in section 119.09 to conduct any hearing the board is~~

~~empowered to hold under Chapter 119. of the Revised Code.~~

~~In the absence of fraud or bad faith, neither the board nor any current or former members, agents, representatives, or employees of the board shall be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to their official duties undertaken or performed pursuant to this chapter. If a current or former member, agent, representative, or employee requests the state to defend the individual against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the individual's official duties, if the request is made in writing at a reasonable time before trial, and if the individual requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for such defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay that part of a claim or judgment that is for punitive or exemplary damages.~~

~~(F)(4) Any board activity that involves continued monitoring of an individual as part of or following any disciplinary action taken under this section shall be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the board with respect to the board's monitoring activities is confidential and not subject to discovery in any civil action.~~

~~(J) Any action taken by the board under this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the person may be reinstated to practice.~~

~~(G)(K) When the board refuses to grant a license or certificate to an applicant, revokes a license or certificate, or refuses to reinstate a license or certificate, the board may specify that its action is permanent. An individual subject to permanent action taken by the board is forever ineligible to hold a license or certificate of the type that was refused or revoked and the board shall not accept from the individual an application for reinstatement of the license or certificate or for a new license or certificate.~~

~~(L) No unilateral surrender of a nursing license, certificate of authority, or dialysis technician certificate issued under this chapter shall be effective unless accepted by majority vote of the board. No application for a nursing license, certificate of authority, or dialysis technician certificate issued under this chapter may be withdrawn without a majority vote of the board. The board's jurisdiction to take disciplinary action under this section is not removed or limited when an individual has a license or certificate classified as inactive or fails to renew a license or certificate.~~

~~(H) Notwithstanding division (B)(24) of this section, sanctions (M)~~

Sanctions shall not be imposed under division (B)(24) of this section against any licensee who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. ~~The~~ Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

~~(1) The holder of a license or certificate issued under this chapter shall return to the board a license or certificate that has lapsed or been suspended or revoked.~~

Sec. 4723.281. (A) As used in this section, with regard to offenses committed in Ohio, "aggravated murder," "murder," "voluntary manslaughter," "felonious assault," "kidnapping," "rape," "sexual battery," "gross sexual imposition," "aggravated arson," "aggravated robbery," and "aggravated burglary" mean such offenses as defined in Title XXIX of the Revised Code; with regard to offenses committed in other jurisdictions, the terms mean offenses comparable to offenses defined in Title XXIX of the Revised Code.

~~(B) The board of nursing may impose a summary suspension without a hearing on a person who holds a nursing license or dialysis technician certificate issued under this chapter if it determines that there is evidence that the license or certificate holder is subject to actions under division (B) of section 4723.28 of the Revised Code and that when there is clear and convincing evidence that continued practice by ~~the~~ license or certificate holder an individual licensed under this chapter presents a danger of immediate and serious harm to the public. ~~The,~~ as determined on consideration of the evidence by the president and the executive director of the board of nursing, the president and director shall ~~make a preliminary determination and describe the evidence on which they made their determination to the other members of the board.~~ The board may by resolution designate another board member to act in place of the president of the board and another employee to act in the place of the executive director, in the event that the board president or executive director is unavailable or unable to act. On consideration of the evidence, the board may by an affirmative vote of seven members, not including the president of the board or the person named to act in place of the president, impose on the individual a summary suspension without a hearing. ~~The description of the~~~~

~~evidence and information may be given and the vote taken by telephone conference call~~ An individual serving as president or executive director in the absence of the president or executive director may take any action that this section requires or authorizes the president or executive director to take.

Immediately following the decision to impose a summary suspension ~~under this division~~, the board shall issue a written order of suspension and cause it to be delivered by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during the pendency of any appeal filed under section 119.12 of the Revised Code. If the ~~license or certificate holder~~ individual subject to the suspension requests an adjudication ~~hearing~~, the date set for the ~~hearing~~ adjudication shall be within fifteen days but not earlier than seven days after the ~~license or certificate holder has requested a hearing~~ individual makes the request, unless another date is agreed to by both the ~~license or certificate holder~~ individual and the board. The summary suspension shall remain in effect, unless reversed by the board, until a final adjudication order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective.

The board shall issue its final adjudication order within ninety days after completion of the ~~hearing~~ adjudication. If the board does not issue ~~such a~~ final order within the ninety-day period, the summary suspension shall be void, but any final adjudication order issued subsequent to the ninety-day period shall not be affected.

(C) ~~The license or certificate of a registered nurse, licensed practical nurse, or dialysis technician issued to an individual under this chapter is automatically suspended on that person's~~ individual's conviction ~~of~~, plea of guilty ~~to~~, or judicial ~~determination of guilt of~~ finding with regard to any of the following ~~in Ohio or any other jurisdiction of the United States~~: 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 ~~adjudicatory hearing~~ 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 ~~registered nurse, licensed practical nurse, or dialysis technician~~ individual subject to the suspension. If the ~~registered nurse, licensed practical nurse, or dialysis technician~~ individual is notified and either fails to request an ~~adjudicatory hearing~~ adjudication within the time periods established by Chapter 119. of the Revised Code or fails to participate in the ~~hearing~~ adjudication, the board ~~may~~ shall enter a final order permanently

revoking the person's license or certificate.

Sec. 4723.282. (A) As used in this section, "practice deficiency" means any activity that does not meet acceptable and prevailing standards of safe and effective nursing care or dialysis care.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 of the Revised Code against the holder of a license or certificate issued under this chapter who has a practice deficiency that has been identified by the board through an investigation conducted under section 4723.28 of the Revised Code. The board may abstain from taking action only if the board has reason to believe that the individual's practice deficiency can be corrected through remediation, and if the individual enters into an agreement with the board to seek remediation as prescribed by the board, complies with the terms and conditions of the remediation, and successfully completes the remediation. If an individual fails to complete the remediation or the board determines that remediation cannot correct the individual's practice deficiency, the board shall proceed with disciplinary action in accordance with section 4723.28 of the Revised Code.

(C) To implement its authority under this section to abstain from taking disciplinary action, the board shall establish a practice intervention and improvement program. The board shall designate an administrator to operate the program and, in accordance with Chapter 119. of the Revised Code, adopt rules for the program that establish the following:

- (1) Criteria for use in identifying an individual's practice deficiency;
- (2) Requirements that an individual must meet to be eligible for remediation and the board's abstention from disciplinary action;
- (3) Standards and procedures for prescribing remediation that is appropriate for an individual's identified practice deficiency;
- (4) Terms and conditions that an individual must meet to be successful in completing the remediation prescribed;
- (5) Procedures for the board's monitoring of the individual's remediation;
- (6) Procedures for maintaining confidential records regarding individuals who participate in remediation;
- (7) Any other requirements or procedures necessary to develop and administer the program.

(D) All records held by the board for purposes of the program shall be confidential, are not public records for purposes of section 149.43 of the Revised Code, and are not subject to discovery by subpoena or admissible as evidence in any judicial proceeding. The administrator of the program shall maintain all records in the board's office in accordance with the board's

record retention schedule.

(E) When an individual begins the remediation prescribed by the board, the individual shall sign a waiver permitting any entity that provides services related to the remediation to release to the board information regarding the individual's progress. An entity that provides services related to remediation shall report to the board if the individual fails to complete the remediation or does not make satisfactory progress in remediation.

In the absence of fraud or bad faith, an entity that reports to the board regarding an individual's practice deficiency, or progress or lack of progress in remediation, is not liable in damages to any person as a result of making the report.

(F) An individual participating in remediation prescribed under this section is responsible for all financial obligations that may arise from obtaining or completing the remediation.

Sec. 4723.32. This chapter does not prohibit any of the following:

(A) The practice of nursing by students as an integral part of a program of study leading to initial licensure and a student currently enrolled in and actively pursuing completion of a prelicensure nursing education program approved by the board of nursing, if the student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor;

~~(B)~~ The practice of nursing by a person currently licensed in another jurisdiction who is employed by the United States government or any agency thereof while in the discharge of official duties;

~~(C)~~ The rendering of medical assistance to a licensed physician, licensed dentist, or licensed podiatrist by a person under the direction, supervision, and control of such licensed physician, dentist, or podiatrist;

~~(D)~~ (C) The activities of persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, home health agencies, or other similar institutions;

~~(E)~~ The practice of nursing by any registered nurse or licensed practical nurse currently licensed in another jurisdiction who is employed by an individual, agency, or corporation located in that jurisdiction and whose employment responsibilities include transporting patients into, out of, or through this jurisdiction, so long as each trip does not exceed forty eight hours in this state;

~~(F)~~ (D) The provision of nursing services to family members or in emergency situations;

~~(G)~~ (E) The care of the sick when done in connection with the practice of

religious tenets of any church and by or for its members;

~~(H)~~(F) The practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner by a student ~~as an integral part~~ currently enrolled in and actively pursuing completion of a program of study leading to initial authorization by the board to practice nursing in the specialty, if the program qualifies the student to sit for the examination of a national certifying organization listed in division (A)(3) of section 4723.41 of the Revised Code or approved by the board under section 4723.46 of the Revised Code, or prepares the student to receive a master's degree in accordance with division (A)(2) of section 4723.41 of the Revised Code;

(G) The activities of an individual who currently holds a license to practice nursing in another jurisdiction, if the individual's license has not been revoked, the individual is not currently under suspension or on probation, the individual does not represent the individual as being licensed under this chapter, and one of the following is the case:

(1) The individual is engaging in the practice of nursing by discharging official duties while employed by or under contract with the United States government or any agency thereof;

(2) The individual is engaging in the practice of nursing as an employee of an individual, agency, or corporation located in the other jurisdiction in a position with employment responsibilities that include transporting patients into, out of, or through this state, as long as each trip in this state does not exceed seventy-two hours;

(3) The individual is consulting with an individual licensed in this state to practice any health-related profession;

(4) The individual is engaging in activities associated with teaching in this state as a guest lecturer at or for a nursing education program, continuing nursing education program, or in-service presentation;

(5) The individual is conducting evaluations of nursing care that are undertaken on behalf of an accrediting organization, including the national league for nursing accrediting committee, the joint commission on accreditation of healthcare organizations, or any other nationally recognized accrediting organization;

(6) The individual is providing nursing care to an individual who is in this state on a temporary basis, not to exceed six months in any one calendar year, if the nurse is directly employed by or under contract with the individual or a guardian or other person acting on the individual's behalf;

(7) The individual is providing nursing care during any disaster, natural or otherwise, that has been officially declared to be a disaster by a public

announcement issued by an appropriate federal, state, county, or municipal official.

Sec. 4723.33. A registered nurse, licensed practical nurse, or dialysis technician who in good faith makes a report under this chapter or any other provision of the Revised Code regarding a violation of this chapter or any other provision of the Revised Code, or participates in any investigation, administrative proceeding, or judicial proceeding resulting from the report, has the full protection against retaliatory action provided by sections 4113.51 to 4113.53 of the Revised Code.

Sec. 4723.34. (A) Reports to the board of nursing shall be made as follows:

(1) Every employer of registered nurses, licensed practical nurses, or dialysis technicians shall report to the board of nursing the name of any ~~person~~ current or former employee who holds a nursing license or dialysis technician certificate issued under this chapter ~~whose employment who~~ has been terminated voluntarily or involuntarily because of ~~engaged in~~ conduct that would be grounds for disciplinary action by the board under ~~division (B)~~ of section 4723.28 of the Revised Code.

~~(B)~~(2) Nursing associations shall report to the board the name of any registered nurse or licensed practical nurse and dialysis technician associations shall report to the board the name of any dialysis technician who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code, except that ~~a nursing an~~ association is not required to report the individual's name ~~of such a nurse~~ if the ~~nurse~~ individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.

~~(C)~~(3) If the prosecutor in a case described in divisions (B)(3) to (5) of section 4723.28 of the Revised Code, or in a case where the trial court issued an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor committed in the course of practice, a felony charge, or a charge of gross immorality or moral turpitude, knows or has reason to believe that the person charged is licensed under this chapter to practice nursing as a registered nurse or as a licensed practical nurse or holds a certificate issued under this chapter to practice as a dialysis technician, the prosecutor shall notify the board of nursing on forms prescribed and provided by the board. The report shall include the name and address of the license or certificate holder, the charge, and the certified court documents recording the action.

~~(D)~~(B) If any person fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

Sec. 4723.341. (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code and also includes the board of nursing and its members and employees; health care facilities, associations, and societies; insurers; and individuals.

(B) In the absence of fraud or bad faith, no person reporting to the board of nursing or testifying in an adjudication ~~hearing~~ conducted under Chapter 119. of the Revised Code with regard to alleged incidents of negligence or malpractice; or matters subject to this chapter or section 2301.373 or 4723.28 of the Revised Code, violations of section 4723.34 of the Revised Code, or the qualifications, fitness, or character of a person licensed or applying for a license to practice nursing as a registered nurse or licensed practical nurse, or holding or applying for a certificate to practice as a dialysis technician, shall be subject to ~~any civil action or liable for damages as a result either~~ of the following based on making the report or testifying:

(1) Liability in damages in a civil action for injury, death, or loss to person or property;

(2) Discipline or dismissal by an employer.

(C) An individual who is disciplined or dismissed in violation of division (B)(2) of this section has the same rights and duties accorded an employee under sections 4113.52 and 4113.53 of the Revised Code.

(D) In the absence of fraud or bad faith, no professional association of registered nurses ~~or~~ licensed practical nurses, or dialysis technicians that sponsors a committee or program to provide peer assistance to ~~nurses~~ individuals with substance abuse problems, no representative or agent of such a committee or program, and no member of the board of nursing shall be liable to any person for damages in a civil action by reason of actions taken to refer a nurse or dialysis technician to a treatment provider ~~designated by the board~~ or actions or omissions of the provider in treating a nurse or dialysis technician.

Sec. 4723.35. (A) As used in this section, "chemical dependency" means either of the following:

(1) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(2) The use of a ~~drug of abuse,~~ controlled substance as defined in section ~~3719.014~~ 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as

efined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 of the Revised Code against an individual with a chemical dependency if it finds that the individual can be treated effectively and there is no impairment of the individual's ability to practice according to acceptable and prevailing standards of SAFE care. The board shall establish a chemical dependency monitoring program, which shall be called the alternative program for chemical dependency. The program shall be available to persons who hold a nursing license or dialysis technician certificate issued under this chapter, have a chemical dependency, and meet eligibility requirements to monitor the registered nurses, licensed practical nurses, and dialysis technicians against whom the board has abstained from taking action. The board shall develop the program, select the program's name, and designate an administrator or a coordinator to operate it, and administer the program.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following:

(1) Eligibility requirements for admission to and continued participation in the monitoring program;

(2) Terms and conditions a participant that must meet be met to participate in and successfully complete the program;

(3) Procedures for keeping confidential records regarding participants;

(4) Any other requirements or procedures necessary to establish and administer the program.

(C) A person who holds a nursing license or dialysis technician certificate issued under this chapter may voluntarily seek treatment for any chemical dependency that may be grounds for disciplinary action by the board under division (B) of section 4723.28 of the Revised Code. The board of nursing may abstain from taking disciplinary action against a person who voluntarily seeks treatment if it finds that the person can be treated effectively and that there is no impairment of ability to practice according to acceptable and prevailing standards of safe nursing or dialysis care. The board may require, as a condition of its abstention, that the person participate in the alternative program for chemical dependency, comply with the terms and conditions of the program, and successfully complete it.

(D) A person who voluntarily participates in the alternative program for chemical dependency without being referred by the board and complies with

~~the terms and conditions of the program and the requirements of this section shall not be subject to investigation or disciplinary action by the board for chemical dependency. The person shall report to the board any failure to comply with the terms and conditions of the program or successfully complete it.~~

(D)(1) As a condition of being admitted to the monitoring program, an individual shall surrender to the program coordinator the license or certificate that the individual holds. While the surrender is in effect, the individual is prohibited from engaging in the practice of nursing or the provision of dialysis care.

If the program coordinator determines that a participant is capable of resuming practice according to acceptable and prevailing standards of safe care, the coordinator shall return the participant's license or certificate. If the participant violates the terms and conditions of resumed practice, the program coordinator shall require the participant to surrender the license or certificate as a condition of continued participation in the program. The coordinator may require the surrender only on the approval of the board's supervising member for disciplinary matters.

The surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute an action by the board under section 4723.28 of the Revised Code. The participant may rescind the surrender at any time and the board may proceed by taking action under section 4723.28 of the Revised Code.

(2) If the program coordinator determines that a participant is significantly out of compliance with the terms and conditions for participation, the coordinator shall notify the board's supervising member for disciplinary matters and the supervising member shall temporarily suspend the participant's license or certificate. The program coordinator shall notify the participant of the suspension by certified mail sent to the participant's last known address and shall refer the matter to the board for formal action under section 4723.28 of the Revised Code.

(E) All of the following apply with respect to the receipt, release, and maintenance of records and information by the monitoring program:

(1) The program coordinator shall maintain all records in the board's office for a period of five years.

(2) When applying to participate in the monitoring program, the applicant shall sign a waiver permitting the program coordinator to receive and release information necessary for the coordinator to determine whether the individual is eligible for admission. After being admitted, the participant shall sign a waiver permitting the program coordinator to receive and release

information necessary to determine whether the individual is eligible for continued participation in the program. Information that may be necessary for the program coordinator to determine eligibility for admission or continued participation in the monitoring program includes, but is not limited to, information provided to and by employers, probation officers, law enforcement agencies, peer assistance programs, health professionals, and treatment providers. No entity with knowledge that the information has been provided to the monitoring program shall divulge that knowledge to any other person.

(3) Except as provided in division (F)(E)(4) of this section, all records pertaining to an individual's application for or participation in the monitoring program, including medical records, chemical dependency treatment records, and mental health records, of a participant in the program shall be confidential. The records are not public records for the purposes of section 149.43 of the Revised Code, and are not subject to discovery by subpoena or admissible as evidence in any judicial proceeding. The administrator of the program shall maintain all records in the board's office for a period of five years.

(F) On commencement of participation in the program, a person shall sign a waiver permitting the program administrator to release to the board the person's records if the person fails to comply with the terms and conditions of the program, does not successfully complete the program, or is unable to practice according to acceptable and prevailing standards of safe nursing care or dialysis care due to chemical dependency. The administrator shall report to the board any such person and release the person's records to it. The board shall then investigate in accordance with division (E) of section 4723.28 of the Revised Code.

(G)(4) The program coordinator may disclose information regarding a participant's progress in the program to any person or government entity that the participant authorizes in writing to be given the information. In disclosing information under this division, the coordinator shall not include any information that is protected under section 3793.13 of the Revised Code or any federal statute or regulation that provides for the confidentiality of medical, mental health, or substance abuse records.

(E) In the absence of fraud or bad faith, the program coordinator, the board of nursing, and the board's employees and representatives are not liable for damages in any civil action as a result of disclosing information in accordance with division (E)(4) of this section. In the absence of fraud or bad faith, any person reporting to the program with regard to an individual's chemical dependence of a person who holds a nursing license or dialysis

~~technician certificate issued under this chapter, or the progress or lack of progress of that person individual with regard to treatment, shall be immune from any civil action and shall~~ is not be liable for civil damages in any civil action as a result of the report.

Sec. 4723.40. ~~In addition to any other remedies provided by law (A) Through the attorney general or an appropriate prosecuting attorney, the board of nursing may apply to an appropriate court for an order enjoining the unauthorized practice of nursing or any other violation of any provision of this chapter, and, upon~~. On the filing of a verified petition, the court shall conduct a hearing on the petition and give the same preference to the proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the court's calendar. On a showing that any a person has violated or is about to violate any provision of this chapter, the court shall grant an order enjoining such the violation.

(B)(1) If the board's supervising member for disciplinary matters obtains information sufficient to determine that a person may have engaged in the unauthorized practice of nursing or any other violation of this chapter, the supervising member shall notify the alleged offender by registered mail that information has been obtained regarding the alleged violation. The notice may be sent either before or after a petition has been filed under division (A) of this section.

(2) To be considered sufficient, the information must include all of the following:

(a) A description of the alleged violation;

(b) If a particular individual can be identified, the name of the individual involved in the violation;

(c) The name and address of the facility, institution, or other place where the violation occurred;

(d) The approximate dates that the violation occurred.

(3) Not later than thirty days after receiving notice from the supervising member, the alleged offender shall respond to the supervising member with respect to the allegations. If the person fails to give a timely and sufficient response, the supervising member shall investigate. Based on the findings of the investigation, the supervising member may request that the board proceed as authorized by division (A) of this section.

(C) The injunction proceedings and notice requirements provided for by this section are in addition to all penalties and other remedies provided in this chapter.

Sec. 4723.42. (A) If the applicant for authorization to practice nursing

as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner has met all the requirements of section 4723.41 of the Revised Code and has paid the fee required by section 4723.08 of the Revised Code, the board of nursing shall issue its certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, which shall designate the nursing specialty the nurse is authorized to practice. The certificate entitles its holder to practice nursing in the specialty designated on the certificate.

The board shall issue or deny its certificate not later than sixty days after receiving all of the documents required by section 4723.41 of the Revised Code.

If an applicant is under investigation for a violation of this chapter, the board shall conclude the investigation not later than ninety days after receipt of all required documents, unless this ninety-day period is extended by written consent of the applicant, or unless the board determines that a substantial question of such a violation exists and the board has notified the applicant in writing of the reasons for the continuation of the investigation. If the board determines that the applicant has not violated this chapter, it shall issue a certificate not later than forty-five days after making that determination.

(B) Authorization to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall be renewed biennially according to rules and a schedule adopted by the board. ~~Before a date specified by the board~~ In providing renewal applications to certificate holders, the board shall ~~mail an application for renewal of a certificate of authority to each certificate holder at the last known address of the holder~~ follow the procedures it follows under section 4723.24 of the Revised Code in providing renewal applications to license holders. Failure of the certificate holder to receive an application for renewal from the board does not excuse the holder from the requirements of section 4723.44 of the Revised Code. ~~Not~~

Not later than the date specified by the board, the holder shall complete the renewal form and return it to the board with all of the following:

- (1) The renewal fee required by section 4723.08 of the Revised Code;
- (2) Except as provided in division (C) of this section, documentation satisfactory to the board that the holder has maintained certification in the nursing specialty with a national certifying organization listed in division (A)(3) of section 4723.41 of the Revised Code or approved by the board under section 4723.46 of the Revised Code;

(3) A list of the names and business addresses of the holder's current collaborating physicians and podiatrists, if the holder is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(4) If the holder's certificate was issued under division (C) of section 4723.41 of the Revised Code, ~~evidence~~ documentation satisfactory to the board that the holder has completed continuing education for a clinical nurse specialist as required by rule of the board;

(5) If the holder's certificate was issued under division (D) of section 4723.41 of the Revised Code, ~~verification of~~ documentation satisfactory to the board that the holder has continued employment by a public agency or a private, nonprofit entity that receives funding under Title X of the "Public Health Service Act," 42 U.S.C. 300 and 300a-1 (1991).

On receipt of the renewal application, fees, and documents, the board shall verify that the applicant holds a current license to practice nursing as a registered nurse in this state, and, if it so verifies, shall renew the certificate. If an applicant submits the completed renewal application after the date specified in the board's schedule, but before the expiration of the certificate, the board shall grant a renewal when the late renewal fee required by section 4723.08 of the Revised Code is paid.

An applicant for reinstatement of an expired certificate shall submit the reinstatement fee, renewal fee, and ~~the~~ late renewal fee required by section 4723.08 of the Revised Code. Any holder of a certificate who desires inactive status shall give the board written notice to that effect.

(C) The board shall renew a certificate of authority to practice nursing as a clinical nurse specialist issued pursuant to division (C) of section 4723.41 of the Revised Code, if the certificate holder complies with all renewal requirements of this section other than the requirement of having maintained certification in the holder's nursing specialty.

Sec. 4723.43. A certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may provide to individuals and groups nursing care that requires knowledge and skill obtained from advanced formal education and clinical experience.

(A) A nurse authorized to practice as a certified nurse-midwife, in collaboration with one or more physicians, may provide the management of preventive services and those primary care services necessary to provide health care to women antepartally, intrapartally, postpartally, and gynecologically, consistent with the nurse's education and certification, and in accordance with rules adopted by the board.

No certified nurse-midwife may perform version, deliver breech or face presentation, use forceps, do any obstetric operation, or treat any other

normal condition, except in emergencies. Division (A) of this section does not prohibit a certified nurse-midwife from performing episiotomies or normal vaginal deliveries, or repairing vaginal tears. A certified nurse-midwife who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

(B) A nurse authorized to practice as a certified registered nurse anesthetist, with the supervision and in the immediate presence of a physician, podiatrist, or dentist, may administer anesthesia and perform anesthesia induction, maintenance, and emergence, and may perform with supervision preanesthetic preparation and evaluation, postanesthesia care, and clinical support functions, consistent with the nurse's education and certification, and in accordance with rules adopted by the board. A certified registered nurse anesthetist is not required to obtain a certificate to prescribe in order to provide the anesthesia care described in this division.

The physician, podiatrist, or dentist supervising a certified registered nurse anesthetist must be actively engaged in practice in this state. When a certified registered nurse anesthetist is supervised by a podiatrist, the nurse's scope of practice is limited to the anesthesia procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform. A certified registered nurse anesthetist may not administer general anesthesia under the supervision of a podiatrist in a podiatrist's office. When a certified registered nurse anesthetist is supervised by a dentist, the nurse's scope of practice is limited to the anesthesia procedures that the dentist has the authority under Chapter 4715. of the Revised Code to perform.

(C) A nurse authorized to practice as a certified nurse practitioner, in collaboration with one or more physicians or podiatrists, may provide preventive and primary care services and evaluate and promote patient wellness within the nurse's nursing specialty, consistent with the nurse's education and certification, and in accordance with rules adopted by the board. A certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

When a certified nurse practitioner is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

(D) A nurse authorized to practice as a clinical nurse specialist, in collaboration with one or more physicians or podiatrists, may provide and

manage the care of individuals and groups with complex health problems and provide health care services that promote, improve, and manage health care within the nurse's nursing specialty, consistent with the nurse's education and in accordance with rules adopted by the board. A clinical nurse specialist who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section ~~4731.481~~ 4723.481 of the Revised Code.

When a clinical nurse specialist is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

Sec. 4723.47. (A) If a certified registered nurse anesthetist's, clinical nurse specialist's, certified nurse-midwife's, or certified nurse practitioner's license to practice nursing as a registered nurse expires for failure to renew under section 4723.24 of the Revised Code, the nurse's certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is lapsed until the license is reinstated. If the license is revoked under section 4723.28 or 4723.281 of the Revised Code, the nurse's certificate of authority is automatically revoked. If the license is suspended under either section, the nurse's certificate of authority is automatically suspended while the license remains suspended. If the license is classified as inactive under section 4723.24 of the Revised Code, the nurse's certificate of authority is automatically classified as inactive while the license remains inactive.

(B) If a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner holds a certificate to prescribe issued under section 4723.48 of the Revised Code and the nurse's certificate of authority to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner expires for failure to renew under section 4723.41 of the Revised Code, the nurse's certificate to prescribe is lapsed until the certificate of authority is reinstated. If the certificate of authority becomes inactive in accordance with section 4723.42 of the Revised Code, the nurse's certificate to prescribe is lapsed until the certificate of authority becomes active. If the certificate of authority is revoked under section 4723.28 or 4723.281 of the Revised Code, the nurse's certificate to prescribe is automatically revoked. If the certificate of authority is suspended under either section, the nurse's certificate to prescribe is automatically suspended while the certificate of authority remains suspended. If a restriction is placed on the certificate of authority under section 4723.28 of the Revised Code,

the same restriction is placed on the nurse's certificate to prescribe while the certificate of authority remains restricted.

Sec. 4723.48. (A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner seeking authority to prescribe drugs and therapeutic devices shall file with the board of nursing a written application for a certificate to prescribe. The board of nursing shall issue a certificate to prescribe to each applicant who meets the requirements specified in section 4723.482 or 4723.484 of the Revised Code.

Except as provided in division (B) of this section, the initial certificate to prescribe that the board issues to an applicant shall be issued as an externship certificate. Under an externship certificate, the nurse may obtain experience in prescribing drugs and therapeutic devices by participating in an externship that evaluates the nurse's competence, knowledge, and skill in pharmacokinetic principles and their clinical application to the specialty being practiced. During the externship, the nurse may prescribe drugs and therapeutic devices only when one or more physicians are providing supervision in accordance with rules adopted under section 4723.50 of the Revised Code.

After completing the externship, the holder of an externship certificate may apply for a new certificate to prescribe. On receipt of the new certificate, the nurse may prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

(B) In the case of an advanced practice nurse who on ~~the effective date of this section~~ May 17, 2000, is approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices, the initial certificate to prescribe that the board issues to the nurse under this section shall not be an externship certificate. The nurse shall be issued a certificate to prescribe that permits the nurse to prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

Sec. 4723.62. (A) As used in this section, "county board client," "county board worker," "delegated nursing task," "health care professional," "nurse," and "prescribed medication" have the same meanings as in section 5126.35 of the Revised Code.

(B)(1) ~~Not later than ninety days after the effective date of this section,~~ The board of nursing shall adopt rules that, within the programs and services offered by county boards of mental retardation and developmental disabilities, govern the delegation by nurses to county board workers of authority to give or apply prescribed medication to and perform delegated nursing tasks on county board clients pursuant to a policy adopted under section 5126.351 of the Revised Code. The rules shall be adopted in

accordance with Chapter 119. of the Revised Code and establish all of the following:

(a) Standards for the training of nurses to train county board workers to give or apply prescribed medication or perform delegated nursing tasks;

(b) Standards for training modules and programs of instruction to be conducted for county board workers to train them to give or apply prescribed medication or perform delegated nursing tasks;

(c) Criteria to be used and standards to be followed by nurses when delegating authority to county board workers to give or apply prescribed medication or perform delegated nursing tasks;

(d) Conditions and limitations on the authority of a nurse to delegate to a county board worker authority to give or apply prescribed medication or perform delegated nursing tasks;

(e) Standards for supervision by a nurse of a county board worker who is giving or applying prescribed medication or performing a delegated nursing task, including standards for on-site supervision and off-site supervision through some means of telecommunication;

(f) Procedures for accepting and referring to the department of mental retardation and developmental disabilities complaints regarding delegation of authority to county board workers and actions by county board workers in giving or applying prescribed medication and performing delegated nursing tasks;

(g) Actions that a county board worker may take to assist a county board client in the self-administration of prescribed medication pursuant to section 5126.355 of the Revised Code;

(h) Any other standards, procedures, or requirements the board considers appropriate with regard to delegation to county board workers of authority to give or apply prescribed medication or perform delegated nursing tasks.

(2) Training modules and courses of instruction for training county board workers to give or apply prescribed medication or perform delegated nursing tasks shall be conducted by registered nurses and by licensed practical nurses under the direction of a registered nurse, except that the rules adopted by the board of nursing under this section may provide for the use of health care professionals other than nurses to provide instruction within the scope of their practices.

Sec. 4723.74. A person who seeks to operate a dialysis training program shall apply to the board of nursing for approval of the program. Applications shall be submitted in accordance with rules adopted under section 4723.79 of the Revised Code. The person shall include with the application the fee

prescribed in those rules. If the program meets the requirements for approval as specified in the rules, the board shall approve the program. ~~The board may withdraw the approval of a program that ceases to meet the requirements for approval.~~ A program shall apply for reapproval and may be reapproved in accordance with rules adopted under section 4723.79 of the Revised Code.

The board may withdraw the approval of a program that ceases to meet the requirements for approval. Any action to withdraw the approval shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4723.76. (A) The board of nursing shall issue a temporary certificate to practice as a dialysis technician to a person who meets all of the following requirements:

(1) The person applies to the board in accordance with rules adopted under section 4723.79 of the Revised Code and includes with the application the fee established in those rules.

(2) The person provides documentation from the person's employer that demonstrates that the person is competent to perform dialysis care.

(3) One of the following applies:

(a) The person has successfully completed a dialysis training program approved by the board of nursing under section 4723.74 of the Revised Code.

(b) The person is, on ~~the effective date of this section~~ December 24, 2000, employed as a dialysis technician but has been so employed for less than twelve months.

(c) The person has experience as a dialysis technician in a jurisdiction that does not license or certify dialysis technicians and has successfully completed a training program that is substantially similar to a program approved by the board.

(B) A temporary certificate issued to a person who meets the requirement in division (A)(3)(a) of this section is valid for eighteen months from the date on which the holder entered a dialysis training program approved by the board under section 4723.74 of the Revised Code.

A temporary certificate issued to a person who meets the requirement in division (A)(3)(b) of this section is valid for the number of months equal to eighteen months minus the number of months the person has been employed as a dialysis technician.

A temporary certificate issued to a person who meets the requirement in division (A)(3)(c) of this section and has been working as a dialysis technician for twelve months or longer is valid for six months. A temporary certificate issued to a person who meets the requirement in division

(A)(3)(c) of this section and has been employed as a dialysis technician for less than twelve months is valid for the number of months equal to eighteen months minus the number of months the person has been employed as a dialysis technician.

(C) A temporary certificate issued under this section may be renewed once if the holder enrolls or re-enrolls in a dialysis training program approved by the board. A temporary certificate that has been renewed is not renewable. A person holding a temporary certificate shall provide a copy of the temporary certificate to the dialysis provider who employs the person. The person shall not act as a trainer or preceptor in any dialysis training program.

Sec. 4723.79. The board of nursing shall adopt rules to administer and enforce sections 4723.71 to 4723.79 of the Revised Code. The board shall adopt the rules in accordance with Chapter 119. of the Revised Code. The rules shall establish or specify all of the following:

(A) The application process, fee, and requirements for approval, reapproval, and withdrawing the approval of a dialysis training program under section 4723.74 of the Revised Code. The requirements shall include standards that must be satisfied regarding curriculum, length of training, and instructions in patient care.

(B) The application process, fee, and requirements for issuance of a certificate under section 4723.75 of the Revised Code, except that the amount of the fee shall be no greater than the fee charged under division (A)(1) of section 4723.08 of the Revised Code;

(C) The application process, fee, and requirements for issuance of a temporary certificate under section 4723.76 of the Revised Code;

(D) The process for approval of testing organizations under section 4723.751 of the Revised Code;

(E) Subjects to be included in a certification examination provided for in division (B)(1) of section 4723.75 of the Revised Code;

(F) The schedule, fees, and continuing education requirements for renewal of a certificate under section 4723.77 of the Revised Code, except that the fee for the renewal of a certificate shall be no greater than the fee charged under division (A)~~(8)~~(9) of section 4723.08 of the Revised Code;

(G) Standards and procedures for establishing and maintaining the dialysis registry required by section 4723.78 of the Revised Code, including standards and procedures that persons must follow in providing the information to be included in the registry;

(H) Standards for the administration of medication by dialysis technicians under section 4723.72 of the Revised Code;

(I) The information a dialysis provider is to provide to the board when attesting to a person's competence to perform dialysis;

(J) Standards and procedures for the supervision of dialysis technicians who provide dialysis care in a patient's home, including monthly home visits by a registered nurse to monitor the quality of the dialysis care;

(K) Any other procedures or requirements necessary for the administration and enforcement of sections 4723.71 to 4723.79 of the Revised Code.

Sec. 4723.99. ~~Whoever~~ (A) Except as provided in division (B) of this section, whoever violates section 4723.03 or 4723.44 of the Revised Code ~~shall be fined five hundred dollars or imprisoned not more than ninety days or both~~ is guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

(B) A registered nurse or licensed practical nurse who violates division (A) or (B) of section 4723.03 of the Revised Code by reason of a license to practice nursing that has lapsed for failure to renew or by practicing nursing after a license has been classified as inactive is guilty of a minor misdemeanor.

Sec. 4731.27. (A) As used in this section, "collaboration," "physician," "standard care arrangement," and "supervision" have the same meanings as in section ~~4723.02~~ 4723.01 of the Revised Code.

(B) Except as provided in division (C)(1) of section 4723.431 of the Revised Code, a physician or podiatrist shall enter into a standard care arrangement with each clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration. The collaborating physician or podiatrist shall fulfill the responsibilities of collaboration, as specified in the arrangement and in accordance with division (A) of ~~section~~ section 4723.431 of the Revised Code. A copy of the standard care arrangement shall be retained on file at each site where the nurse practices. Prior approval of the standard care arrangement by the state medical board is not required, but the board may periodically review it.

Nothing in this division prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and governing body of the hospital prior to implementation of the arrangement at the hospital.

~~(D)~~(C) With respect to a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner participating in an externship pursuant to an initial certificate to prescribe issued under section 4723.48 of the Revised Code, the physician responsible for evaluating the externship shall provide the state medical board with the name of the nurse. If the externship is terminated for any reason, the physician shall notify the board.

(D) A physician or podiatrist shall cooperate with the board of nursing in any investigation the board conducts with respect to a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who collaborates with the physician or podiatrist or with respect to a certified registered nurse anesthetist who practices with the supervision of the physician or podiatrist.

Sec. 4731.281. (A) On or before the deadline established under division (B) of this section for applying for renewal of a certificate of registration, each person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry shall certify to the state medical board that in the preceding two years the person has completed one hundred hours of continuing medical education. The certification shall be made upon the application for biennial registration submitted pursuant to division (B) of this section. The board shall adopt rules providing for pro rata reductions by month of the number of hours of continuing education required for persons who are in their first registration period, who have a registration period of less than two years due to initial implementation of the staggered renewal schedule established under division (B) of this section, who have been disabled due to illness or accident, or who have been absent from the country.

In determining whether a course, program, or activity qualifies for credit as continuing medical education, the board shall approve all continuing medical education taken by persons holding a certificate to practice medicine and surgery that is certified by the Ohio state medical association, all continuing medical education taken by persons holding a certificate to practice osteopathic medicine and surgery that is certified by the Ohio osteopathic association, and all continuing medical education taken by persons holding a certificate to practice podiatry that is certified by the Ohio podiatric medical association. Each person holding a certificate to practice under this chapter shall be given sufficient choice of continuing education programs to ensure that the person has had a reasonable opportunity to participate in continuing education programs that are relevant to the person's medical practice in terms of subject matter and level.

The board may require a random sample of persons holding a certificate

to practice under this chapter to submit materials documenting completion of the continuing medical education requirement during the preceding registration period, but this provision shall not limit the board's authority to investigate pursuant to section 4731.22 of the Revised Code.

(B)(1) Every person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry wishing to renew that certificate shall apply to the board for a certificate of registration upon an application furnished by the board, and pay to the board at the time of application a fee of three hundred five dollars, according to the following schedule:

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

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

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

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

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

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

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

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

The board shall deposit the fee in accordance with section 4731.24 of the Revised Code, except that, until July 30, 2001, the board shall deposit twenty dollars of the fee into the state treasury to the credit of the physician loan repayment fund created by section 3702.78 of the Revised Code.

(2) The board shall mail or cause to be mailed to every person registered to practice medicine and surgery, osteopathic medicine and surgery, or

podiatry, an application for registration addressed to the person's last known post-office address or may cause the application to be sent to the person through the secretary of any recognized medical, osteopathic, or podiatric society, according to the following schedule:

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

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

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

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

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

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

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

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

Failure of any person to receive an application from the board shall not excuse the person from the requirements contained in this section. The application shall contain proper spaces for the applicant's signature and the insertion of the required information, including a statement that the person has fulfilled the continuing education requirements imposed by this section.

The applicant shall write or cause to be written upon the application so furnished the applicant's full name, principal practice address and residence address, the number of the applicant's certificate to practice, and any other facts for the identification of the applicant as a person holding a certificate to practice under this chapter as the board considers necessary. The applicant shall include with the application a list of the names and addresses of any clinical nurse specialists, certified nurse-midwives, or certified nurse

practitioners with whom the applicant is currently collaborating, as defined in section ~~4723.02~~ 4723.01 of the Revised Code. The applicant shall execute and deliver the application to the board by mail or in person. Every person registered under this section shall give written notice to the board of any change of principal practice address or residence address or in the list within thirty days of the change.

The applicant shall report any criminal offense that constitutes grounds for refusal of registration under section 4731.22 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate of registration.

(C) The board shall issue to any person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, upon application and qualification therefor in accordance with this section, a certificate of registration under the seal of the board. A certificate of registration shall be valid for a two-year period, commencing on the first day of the third month after the registration fee is due and expiring on the last day of the month two years thereafter.

The board shall publish and cause to be mailed to each person registered under this section, upon request, a printed list of the persons so registered.

(D) Failure of any certificate holder to register and comply with this section shall operate automatically to suspend the holder's certificate to practice. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of section 4731.41, 4731.43, or 4731.60 of the Revised Code. Subject to section 4731.222 of the Revised Code, the board shall reinstate a certificate to practice for failure to register upon an applicant's submission of the biennial registration fee, the applicable monetary penalty, and certification by signature of the applicant that the applicant has completed the requisite continuing medical education. The penalty for reinstatement shall be fifty dollars if the certificate has been suspended for two years or less and one hundred dollars if the certificate has been suspended for more than two years. The board shall deposit the penalties in accordance with section 4731.24 of the Revised Code.

(E) If an individual certifies completion of the number of hours and type of continuing medical education required to receive a certificate of registration or reinstatement of a certificate to practice, and the board finds through the random samples it conducts under this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than

five thousand dollars. The board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six members.

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

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

Sec. 4743.05. Except as otherwise provided in sections 4701.20, ~~4723.061~~, and 4729.65 of the Revised Code, all money collected under Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 4741., 4753., 4755., 4757., 4759., and 4761. of the Revised Code, and until December 31, 2004, money collected under Chapter 4779. of the Revised Code, shall be paid into the state treasury to the credit of the occupational licensing and regulatory fund, which is hereby created for use in administering such chapters. Money deposited to the credit of the fund under section 4731.24 of the Revised Code shall be used until July 1, 1998, for administering Chapters 4730. and 4731. of the Revised Code.

At the end of each quarter, the director of budget and management shall transfer from the occupational licensing and regulatory fund to the nurse education assistance fund created in section 3333.28 of the Revised Code the amount certified to the director under division (B) of section 4723.08 of the Revised Code.

At the end of the first quarter of 1995 and at the end of each quarter thereafter, the director shall transfer from the occupational licensing and regulatory fund to the certified public accountant education assistance fund created in section 4701.26 of the Revised Code the amount certified to the director under division (D)(2) of section 4701.10 of the Revised Code.

Sec. 4751.05. (A) The board of examiners of nursing home administrators, or a government or private entity under contract with the board to administer examinations for licensure as a nursing home administrator, shall admit to an examination any candidate who:

- (1) Pays the application fee of fifty dollars;
- (2) Submits evidence of good moral character and suitability;
- (3) Is at least eighteen years of age;

(4) Has completed educational requirements and work experience satisfactory to the board;

(5) Submits an application on forms prescribed by the board;

(6) Pays the examination fee charged by the board or government or private entity.

(B) Nothing in Chapter 4751. of the Revised Code or the rules adopted thereunder shall be construed to require an applicant for licensure or a temporary license, who is employed by an institution for the care and treatment of the sick to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided by the institution if the institution is all of the following:

(1) Operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs;

(2) Accredited by a national accrediting organization;

(3) Exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended;

(4) Providing twenty-four hour nursing care pursuant to the exemption in division ~~(G)~~(E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(C) If a person fails three times to attain a passing grade on the examination, said person, before the person may again be admitted to examination, shall meet such additional education or experience requirements, or both, as may be prescribed by the board.

Sec. 5111.04. (A) As used in this section:

(1) "Outpatient health facility" means a facility that provides comprehensive primary health services by or under the direction of a physician at least five days per week on a forty-hour per week basis to outpatients, is operated by the board of health of a city or general health district or another public agency or by a nonprofit private agency or organization under the direction and control of a governing board that has no health-related responsibilities other than the direction and control of one or more such outpatient health facilities, and receives at least seventy-five per cent of its operating funds from public sources, except that it does not include an outpatient hospital facility or a federally qualified health center as defined in Sec. 1905(1) (2)(B) of the "Social Security Act," 103 Stat. 2264 (1989), 42 U.S.C.A. 1396d(1)(2)(B).

(2) "Comprehensive primary health services" means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that

include all of the following:

(a) Services of physicians, physician assistants, and certified nurse practitioners;

(b) Diagnostic laboratory and radiological services;

(c) Preventive health services, such as children's eye and ear examinations, perinatal services, well child services, and family planning services;

(d) Arrangements for emergency medical services;

(e) Transportation services.

(3) "Certified nurse practitioner" has the same meaning as in section ~~4723.02~~ 4723.01 of the Revised Code.

(B) Outpatient health facilities are a separate category of medical care provider under the rules governing the administration of the medical assistance program established under section 5111.01 of the Revised Code. Rates of reimbursement for items and services provided by an outpatient health facility under this section shall be prospectively determined by the department of job and family services not less often than once each year, shall not be subject to retroactive adjustment based on actual costs incurred, and shall not exceed the maximum fee schedule or rates of payment, limitations based on reasonable costs or customary charges, and limitations based on combined payments received for furnishing comparable services, as are applicable to outpatient hospital facilities under Title XVIII of the "Social Security Act." In determining rates of reimbursement prospectively, the department shall take into account the historic expenses of the facility, the operating requirements and services offered by the facility, and the geographical location of the facility, shall provide incentives for the efficient and economical utilization of the facility's resources, and shall ensure that the facility does not discriminate between classes of persons for whom or by whom payment for items and services is made.

(C) A facility does not qualify for classification as an outpatient health facility under this section unless it:

(1) Has health and medical care policies developed with the advice of and subject to review by an advisory committee of professional personnel, including one or more physicians, one or more dentists if dental care is provided, and one or more registered nurses;

(2) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(3) Requires that the care of every patient be under the supervision of a

physician, provides for medical care in case of emergency, has in effect a written agreement with one or more hospitals and one or more other outpatient facilities, and has an established system for the referral of patients to other resources and a utilization review plan and program;

(4) Maintains clinical records on all patients;

(5) Provides nursing services and other therapeutic services in compliance with applicable laws and rules and under the supervision of a registered nurse, and has a registered nurse on duty at all times when the facility is in operation;

(6) Follows approved methods and procedures for the dispensing and administration of drugs and biologicals;

(7) Maintains the accounting and record-keeping system required under federal laws and regulations for the determination of reasonable and allowable costs.

Sec. 5126.35. As used in this section and in sections 5126.351 to 5126.357 of the Revised Code:

(A) "County board client" means a person enrolled in a program offered by a county board of mental retardation and developmental disabilities or receiving services from a county board.

(B) "County board worker" means a person who is employed by a county board of mental retardation and developmental disabilities or provides services to county board clients either as a volunteer or pursuant to a contract with the board, except that "county board worker" does not include a health care professional acting within the scope of practice authorized by the professional's license or certificate.

(C) "Delegated nursing task" means a task that is within the scope of practice of a nurse as determined pursuant to Chapter 4723. of the Revised Code and is delegated by a nurse to a county board worker pursuant to a policy adopted by a county board under section 5126.351 of the Revised Code.

(D) "Health care professional" means any of the following:

(1) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code;

(2) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code;

(3) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code;

(4) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;

(5) A doctor of medicine or osteopathic medicine, podiatrist, or a

practitioner of a limited branch of medicine who holds a valid certificate issued under Chapter 4731. of the Revised Code;

(6) A ~~physician's~~ physician assistant for whom a ~~physician~~ who holds a valid certificate of registration issued under ~~section 4730.04~~ Chapter 4730. of the Revised Code;

(7) An occupational therapist or occupational therapy assistant or a physical therapist or physical therapy assistant who holds a valid license issued under Chapter 4755. of the Revised Code;

(8) A respiratory care professional who holds a valid license issued under Chapter 4761. of the Revised Code.

(E) "Nurse" means a registered nurse or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code.

(F) "Prescribed medication" means a drug described in section 4729.01 of the Revised Code that is to be taken orally or applied topically pursuant to the instructions of a licensed health care professional ~~who is~~ authorized ~~by law~~ to prescribe drugs, as defined in section 4729.01 of the Revised Code.

SECTION 2. That existing sections 2305.24, 2305.25, 2305.251, 3313.68, 3701.07, 3701.85, 3702.51, 3719.13, 3721.031, 3721.34, 3727.01, 4723.02, 4723.03, 4723.04, 4723.051, 4723.06, 4723.061, 4723.07, 4723.08, 4723.09, 4723.15, 4723.171, 4723.24, 4723.25, 4723.28, 4723.281, 4723.282, 4723.31, 4723.32, 4723.34, 4723.341, 4723.35, 4723.39, 4723.40, 4723.42, 4723.43, 4723.47, 4723.48, 4723.62, 4723.74, 4723.76, 4723.79, 4723.99, 4731.27, 4731.281, 4743.05, 4751.05, 5111.04, and 5126.35 and section 4723.342 of the Revised Code are hereby repealed.

SECTION 3. The amendment made by this act to section 4723.02 of the Revised Code providing for a four-year term of office for members of the Board of Nursing does not affect the terms of the members holding office on the effective date of this act.

SECTION 4. The authority this act grants to the Board of Nursing to take disciplinary action under section 4723.28 of the Revised Code against a person who has been found eligible for intervention in lieu of conviction extends to a person who, prior to the effective date of Am. Sub. S.B. 107 of the 123rd General Assembly, was found eligible for treatment in lieu of conviction.

SECTION 5. Section 4723.02 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 241, Sub. S.B. 111, and Am. Sub. S.B. 178 of the 123rd General Assembly, with the new language of none of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect on December 24, 2000.

SECTION 6. Sections 4723.04, 4723.06, 4723.08, and 4723.28 of the Revised Code are presented in this act as composites of those sections as amended by both Am. Sub. H.B. 241 and Sub. S.B. 111 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such are the resulting versions in effect prior to the effective date of this act.

SECTION 7. That section 4723.17 of the Revised Code be re-enacted to read as follows:

Sec. 4723.17. (A) The board of nursing may authorize a licensed practical nurse to administer to an adult intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, if all of the following are true of the licensed practical nurse:

(1) The nurse has a current, valid license issued under this chapter that includes authorization to administer medications.

(2) The nurse has successfully completed a course in intravenous administration approved by the board that includes both of the following:

(a) A minimum of forty hours of training that includes all of the following:

(i) The curriculum established by rules adopted by the board and in effect on January 1, 1999;

(ii) Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for

nagement of these complications;

(iii) Any other training or instruction the board considers appropriate.

(b) A testing component that includes the successful performance of three venipunctures supervised by a physician or registered nurse in a health care setting.

(B) Except as provided in section 4723.171 of the Revised Code, a licensed practical nurse may perform intravenous therapy only if authorized by the board pursuant to division (A) of this section and only if it is performed in accordance with this section.

A licensed practical nurse authorized by the board to perform intravenous therapy may perform an intravenous therapy procedure only at the direction of one of the following:

(1) A licensed physician, dentist, optometrist, or podiatrist who, except as provided in division (C)(2) of this section, is present and readily available at the facility where the intravenous therapy procedure is performed;

(2) A registered nurse in accordance with division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section and section 4723.171 of the Revised Code, when a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure at the direction of a registered nurse, the registered nurse or another registered nurse shall be readily available at the site where the intravenous therapy is performed, and before the licensed practical nurse initiates the intravenous therapy, the registered nurse shall personally perform an on-site assessment of the individual who is to receive the intravenous therapy.

(2) When a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure in a home as defined in section 3721.10 of the Revised Code, or in an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code, at the direction of a registered nurse or licensed physician, dentist, optometrist, or podiatrist, a registered nurse shall be on the premises of the home or facility or accessible by some form of telecommunication.

(D) No licensed practical nurse shall perform any of the following intravenous therapy procedures:

(1) Initiating or maintaining any of the following:

(a) Blood or blood components;

(b) Solutions for total parenteral nutrition;

(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;

(d) Solutions administered through any central venous line or arterial

line or any other line that does not terminate in a peripheral vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may maintain the solutions specified in division (D)(6)(a) of this section that are being administered through a central venous line or peripherally inserted central catheter;

(e) Any investigational or experimental medication.

(2) Initiating intravenous therapy in any vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate intravenous therapy in accordance with this section in a vein of the hand, forearm, or antecubital fossa;

(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;

(4) Initiating or discontinuing a peripherally inserted central catheter;

(5) Mixing, preparing, or reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to perform intravenous therapy may prepare or reconstitute an antibiotic additive;

(6) Administering medication via the intravenous route, including all of the following activities:

(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may do either of the following:

(i) Initiate an intravenous infusion containing one or more of the following elements: dextrose 5%; normal saline; lactated ringers; sodium chloride .45%; sodium chloride 0.2%; sterile water.

(ii) Hang subsequent containers of the intravenous solutions specified in division (D)(6)(a) of this section that contain vitamins or electrolytes, if a registered nurse initiated the infusion of that same intravenous solution.

(b) Initiating or maintaining an intravenous piggyback infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate or maintain an intravenous piggyback infusion containing an antibiotic additive;

(c) Injecting medication via a direct intravenous route, except that a licensed practical nurse authorized by the board to perform intravenous therapy may inject heparin or normal saline to flush an intermittent infusion device or heparin lock including, but not limited to, bolus or push.

(7) Aspirating any intravenous line to maintain patency;

(8) Changing tubing on any line including, but not limited to, an arterial line or a central venous line, except that a licensed practical nurse authorized by the board to perform intravenous therapy may change tubing on an

intravenous line that terminates in a peripheral vein;

(9) Programming or setting any function of a patient controlled infusion pump.

(E) Notwithstanding division (D) of this section, at the direction of a physician or a registered nurse, a licensed practical nurse authorized by the board to perform intravenous therapy may perform the following activities for the purpose of performing dialysis:

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan;

(2) The administration of a heparin dose intravenously;

(3) The administration of a heparin dose peripherally via a fistula needle;

(4) The loading and activation of a constant infusion pump or the intermittent injection of a dose of medication prescribed by a licensed physician for dialysis.

(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the licensed practical nurse is authorized by the board to perform intravenous therapy.

(G) The board shall maintain a registry of the names of licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy.

SECTION 8. That existing section 4723.17 of the Revised Code is hereby repealed.

SECTION 9. The re-enactment and repeal of existing section 4723.17 of the Revised Code is intended to confirm the resulting version of the section in effect prior to the effective date of this act. The re-enacted section, previously numbered as section 4723.48 of the Revised Code, is not presented in capital letters because it is a composite of the section as previously amended by Am. Sub. H.B. 241 and Am. Sub. S.B. 178 of the 123rd General Assembly. Under division (B) of section 1.52 of the Revised Code, because these amendments can be put into simultaneous operation, they were harmonized prior to the effective date of this act to give effect to each.

SECTION 10. That the version of section 4723.99 of the Revised Code

that is scheduled to take effect June 27, 2001, be amended to read as follows:

Sec. 4723.99. ~~Whoever~~ (A) Except as provided in division (B) of this section, whoever violates section 4723.03, 4723.44, or 4723.73 of the Revised Code shall be fined five hundred dollars or imprisoned not more than ninety days or both is guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

(B) A registered nurse or licensed practical nurse who violates division (A) or (B) of section 4723.03 of the Revised Code by reason of a license to practice nursing that has lapsed for failure to renew or by practicing nursing after a license has been classified as inactive is guilty of a minor misdemeanor.

SECTION 11. That the existing version of section 4723.99 of the Revised Code that is scheduled to take effect June 27, 2001, is hereby repealed.

SECTION 12. Sections 10 and 11 of this act take effect June 27, 2001.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_