

AN ACT

To amend sections 121.22, 4723.02, 4723.04, 4723.06, 4723.07, 4723.08, 4723.271, 4723.28, 4723.281, 4723.282, 4723.34, 4723.341, 4723.35, 4723.63, and 4723.99 and to enact sections 4723.71, 4723.72, 4723.73, 4723.74, 4723.75, 4723.751, 4723.76, 4723.77, 4723.78, and 4723.79 of the Revised Code to require that the Board of Nursing establish a certification program for dialysis technicians.

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

SECTION 1. That sections 121.22, 4723.02, 4723.04, 4723.06, 4723.07, 4723.08, 4723.271, 4723.28, 4723.281, 4723.282, 4723.34, 4723.341, 4723.35, 4723.63, and 4723.99 be amended and sections 4723.71, 4723.72, 4723.73, 4723.74, 4723.75, 4723.751, 4723.76, 4723.77, 4723.78, and 4723.79 of the Revised Code be enacted to read as follows:

Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.

(B) As used in this section:

(1) "Public body" means any of the following:

(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or

ppointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

(D) This section does not apply to a grand jury, to an audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit, to the adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon, to the organized crime investigations commission established under section 177.01 of the Revised Code, to the state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code, to the board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section ~~4723.181~~ 4723.281 of the Revised Code, or to the executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code.

(E) The controlling board, the development financing advisory council, the industrial technology and enterprise advisory council, the tax credit

authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, council, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, or board from the applicant:

- (1) Marketing plans;
- (2) Specific business strategy;
- (3) Production techniques and trade secrets;
- (4) Financial projections;
- (5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, council, or board to accept or reject the application, as well as all proceedings of the authority, council, or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(G) Except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

- (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or

the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Specialized details of security arrangements if disclosure of the matters discussed might reveal information that could be used for the

purpose of committing, or avoiding prosecution for, a violation of the law;

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the

conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

Sec. 4723.02. 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 prescribed by licensed physicians; dentists; optometrists; podiatrists; or, until January 1, 2010, advanced practice nurses authorized to prescribe under section 4723.56 of the Revised Code;

(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, 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 prescribed by a licensed physician; dentist; optometrist; podiatrist; or, until January 1, 2010, an advanced practice nurse authorized to prescribe under section 4723.56 of the Revised Code, except that administration of intravenous therapy shall be

performed only in accordance with section 4723.48 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 prescribed by a licensed physician; dentist; optometrist; podiatrist; or, until January 1, 2010, an advanced practice nurse authorized to prescribe under section 4723.56 of the Revised Code, on the condition that the licensed practical nurse is authorized by the board of nursing pursuant to section 4723.48 of the Revised Code to perform intravenous therapy and performs intravenous therapy only in accordance with section 4723.48 of the Revised Code.

(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 who holds a certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine and surgery or osteopathic medicine and surgery and is practicing in this state.

(L) "Dentist" means an individual who is licensed under Chapter 4715. of the Revised Code to practice dentistry and is practicing in this state.

(M) "Podiatrist" means an individual who holds a certificate issued under Chapter 4731. of the Revised Code authorizing the practice of podiatry and is practicing in this state.

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

(1) In the case of a clinical nurse specialist, except as provided in

division (N)(3) of this section, or a certified nurse practitioner, that a podiatrist acting within the podiatrist's scope of practice in accordance with section 4731.51 of the Revised Code and with whom the nurse has entered into a standard care arrangement or physician with whom the nurse has entered into a standard care arrangement is 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 a physician with whom the certified nurse-midwife has entered into a standard care arrangement is 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 whose nursing specialty is mental health or psychiatric mental health, that a physician is continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication.

(O) "Supervision" means that a 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.

(P) "Standard care arrangement" means a written, formal guide for planning and evaluating a patient's health care that is developed by a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and meets the requirements of section 4723.431 of the Revised Code.

(Q) "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) "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. 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 ~~concerning nurses and nursing and the regulation thereof~~. 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. 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 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 years, commencing on the first day of January and ending on the thirty-first day of December. 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 ~~her~~ 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 ~~her~~ the member's term until ~~her~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. 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 ~~his~~ 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 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 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. 4723.06. (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 under Chapter 119. of the Revised Code;

(2) Examine applicants 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 nursing 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 under Chapter 119. of the

ed 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 under Chapter 119. of the Revised Code to consider the program. Based on results of the hearing, 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 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 ~~for nurses,~~ under rules adopted under section 4723.07 of the Revised Code, for nurses and for dialysis technicians;

(10) Establish the alternative program for ~~chemically dependent nurses~~ 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) Make an annual report to the governor, which shall be open for public inspection;

(15) 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.

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

(A) Providing for its government and control of its actions and business affairs;

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

(C) Establishing requirements that applicants for licensure must meet to be permitted 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;

(E) Establishing 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 that persons must meet to be authorized by the board to approve continuing nursing education programs and courses and a schedule to have that authorization renewed;

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

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

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

~~(M)~~(M) Establishing 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;

~~(N)~~(N) Establishing universal blood and body fluid precautions that shall be used by each person ~~licensed~~ 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)~~(O) Establishing 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;

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

~~(P)~~(Q) Establishing 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;

~~(Q)~~(R) Establishing 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.

Subject to Chapter 119. of the Revised Code, the board may adopt other rules necessary to carry out the provisions of this chapter.

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 verification of a nursing license or certificate of authority, or dialysis technician certificate to another jurisdiction, fifteen dollars;

~~(5)~~(7) For providing a replacement copy of a nursing license or certificate of authority, or dialysis technician certificate, fifteen dollars;

~~(6)~~(8) For biennial renewal of ~~any~~ a nursing license, thirty-five dollars;

~~(7)~~(9) 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 dollars;

~~(8)~~(10) For biennial renewal of a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(11) For processing a late application for renewal of ~~any~~ a nursing

license ~~or~~, certificate of authority, or dialysis technician certificate, fifty dollars;

~~(9)~~(12) 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;

~~(10)~~(13) 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;

~~(11)~~(14) For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;

~~(12)~~(15) 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) For written verification of a nursing license or 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, 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.

Sec. 4723.271. The board of nursing shall provide a replacement copy of a nursing license or certificate of authority, or dialysis technician certificate issued under this chapter upon request of the holder accompanied by proper identification as prescribed in rules adopted by the board and payment of the fee authorized under section 4723.08 of the Revised Code.

Upon request of the holder of a nursing license, certificate of authority, or dialysis technician certificate issued under this chapter and payment of the fee authorized under section 4723.08 of the Revised Code, the board shall verify to an agency of another jurisdiction or foreign country the fact that the person holds such nursing license, certificate of authority, or dialysis technician certificate.

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 ~~or~~, certificate of authority, or dialysis technician certificate to a person found by the board to have committed fraud in passing ~~the~~ 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 ~~or~~, 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 ~~or~~, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license ~~or~~, 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 ~~a license to practice nursing, for any reason other than a failure to renew, in another state or jurisdiction; or denial, revocation, suspension, or restriction of a license authority to practice a health care occupation other than, 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 misdemeanor committed in the course of practice;

(4) Conviction of, a plea of guilty to, or a judicial finding of guilt of any felony or of any crime involving gross immorality or moral turpitude;

(5) Selling, giving away, or administering drugs for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, or a judicial finding of guilt of violating any municipal, state, county, or federal drug law;

(6) Conviction of, a plea of guilty to, or a judicial finding of guilt of 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 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 in any way not in accordance with a legal, valid prescription;

(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 ~~that the license applicant or license holder is~~ 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 ~~the unlicensed~~ that person's practice of nursing without a license or practice as a dialysis technician

without a certificate issued under this chapter;

~~(23)~~(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, 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.

~~(24)~~(25) Failure to comply with the terms and conditions of participation in the alternative program for ~~chemically dependent nurses~~ chemical dependency created by section 4723.35 of the Revised Code;

~~(25)~~(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;

~~(26)~~(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.

~~(27)~~(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;

(29) 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) If a criminal action is brought against a ~~license holder~~ 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 an

adjudication hearing to determine whether the ~~license holder~~ 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 that the ~~license holder~~ registered nurse, licensed practical nurse, or dialysis technician committed the act, or if the ~~license holder~~ registered nurse, licensed practical nurse, or dialysis technician fails to participate in the hearing, the board may take action as though the ~~license holder~~ 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 as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the ~~license holder~~ 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 an adjudicatory hearing to determine whether the ~~license holder~~ registered nurse, licensed practical nurse, or dialysis technician committed the act on which the original conviction, plea, or judicial determination was based. If the board determines on the basis of the hearing that the ~~license holder~~ registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the ~~license holder~~ registered nurse, licensed practical nurse, or dialysis technician does not request a hearing, 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 this section, the board may compel any ~~individual licensed by this chapter~~ registered nurse, licensed practical nurse, or dialysis technician or ~~who has applied for licensure~~ 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. 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 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 ~~license~~ authority to practice. The individual shall be afforded an opportunity to demonstrate to the board that the individual can resume the individual's occupation in compliance with acceptable and prevailing standards under the provisions of the individual's ~~license~~ authority to practice. For the purpose of this section, any ~~individual who is licensed by this chapter~~ registered nurse, licensed practical nurse, or dialysis technician or ~~makes application for license~~ 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) 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.

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 ~~person licensed by the board~~ registered nurse, licensed practical nurse, or dialysis technician. 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.

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

All hearings 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) 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) 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.

(H) Notwithstanding division (B)~~(23)~~(24) of this section, sanctions shall not be imposed against any licensee who waives deductibles and copayments:

(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 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.

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," "aggravated arson," 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 licensed~~ 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 there is clear and convincing evidence that continued practice by the license or certificate holder presents a danger of immediate and serious harm to the public. The president and the executive director of the board 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 the summary suspension. The description of the evidence and information may be given and the vote taken by telephone conference call.

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 requests an adjudication hearing, the date set for the hearing shall be within fifteen days but not earlier than seven days after the license or certificate holder has requested a hearing, unless another date is agreed to by both the license or certificate holder 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. If the board does not issue such 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 ~~person licensed under this chapter~~

registered nurse, licensed practical nurse, or dialysis technician is automatically suspended on that person's conviction, plea of guilty, or judicial determination of guilt of 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, aggravated arson, or aggravated burglary. The suspension shall remain in effect from the date of the conviction, plea, or finding until an adjudicatory hearing is held under Chapter 119. of the Revised Code. If the board has knowledge that an automatic suspension has occurred, it shall notify the ~~license holder~~ registered nurse, licensed practical nurse, or dialysis technician. If the ~~license holder~~ registered nurse, licensed practical nurse, or dialysis technician is notified and either fails to request an adjudicatory hearing within the time periods established by Chapter 119. of the Revised Code or fails to participate in the hearing, the board may enter a final order 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.

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. 4723.34. (A) Every employer of registered nurses ~~or~~ licensed practical nurses, or dialysis technicians shall report to the board of nursing the name of any person ~~licensed~~ who holds a nursing license or dialysis technician certificate issued under this chapter whose employment has been terminated voluntarily or involuntarily because of conduct that would be grounds for disciplinary action by the board under division (B) of section 4723.28 of the Revised Code.

(B) Nursing associations shall report to the board the name of any registered nurse or licensed practical nurse 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 association is not

required to report the name of such a nurse if the nurse 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) 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) 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. 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.

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, matters subject to 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 of making the report or testifying.

In the absence of fraud or bad faith, no professional association of ~~individuals who are licensed under this chapter~~ registered nurses or licensed practical nurses that sponsors a committee or program to provide peer assistance to nurses 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 to a treatment provider designated by the board or actions or omissions of the provider in treating a nurse.

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, as defined in section 3719.011 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing shall establish a chemical dependency ~~treatment~~ monitoring program, which shall be called the alternative program for ~~chemically dependent nurses~~ chemical dependency. The ~~program~~ program shall be available to ~~registered nurses and licensed practical nurses~~ persons who hold a nursing license or dialysis technician certificate issued under this chapter, have a chemical dependency, and meet eligibility requirements. The board shall develop the program and designate an administrator to operate it, and shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following:

(1) Eligibility requirements for participation;

(2) Terms and conditions a ~~nurse~~ participant must meet to 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 ~~registered nurse or licensed practical nurse~~ 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 ~~nurse~~ person who voluntarily seeks treatment if it finds that the ~~nurse~~ 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 ~~nurse~~ person participate in the alternative program for ~~chemically dependent nurses~~ chemical dependency, comply with the terms and conditions of the program, and successfully complete it.

(D) A ~~nurse~~ person who voluntarily participates in the alternative program for ~~chemically dependent nurses~~ 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 ~~nurse person~~ shall report to the board any failure to comply with the terms and conditions of the program or successfully complete it.

(E) Except as provided in division (F) of this section, all records, including medical records, chemical dependency records, and mental health records, of a participant in the program shall be confidential, 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 ~~registered nurse or licensed practical nurse~~ nurse person shall sign a waiver permitting the program administrator to release to the board the ~~nurse's person's~~ records if the ~~nurse 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 ~~nurse person~~ and release the ~~nurse's person's~~ records to it. The board shall then investigate in accordance with division (E) of section 4723.28 of the Revised Code.

(G) In the absence of fraud or bad faith, any person reporting to the program with regard to ~~a nurse'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 ~~nurse person~~ with regard to treatment, shall be immune from any civil action and shall not be liable for civil damages as a result of the report.

Sec. 4723.63. On receipt of a notice pursuant to section 2301.373 of the Revised Code, the board of nursing shall comply with that section with respect to a nursing license or dialysis technician certificate issued pursuant to this chapter.

Sec. 4723.71. (A) There is hereby established, under the board of nursing, the advisory group on dialysis. The advisory group shall advise the board of nursing regarding the qualifications, standards for training, and competence of dialysis technicians and all other matters related to dialysis technicians. The advisory group shall consist of the members appointed under divisions (B) and (C) of this section. A member of the board of nursing or a representative appointed by the board shall serve as chairperson of all meetings of the advisory group.

(B) The board of nursing shall appoint the following as members of the advisory group:

- (1) Four dialysis technicians;
- (2) A registered nurse who regularly performs dialysis and cares for patients who receive dialysis;
- (3) A physician, recommended by the state medical board, who specializes in nephrology;
- (4) An administrator of a dialysis center;
- (5) A dialysis patient;
- (6) A representative of the association for hospitals and health systems (OHA);
- (7) A representative from the end-stage renal disease network, as defined in 42 C.F.R. 405.2102.

(C) The members of the advisory group appointed under division (B) of this section may recommend additional persons to serve as members of the advisory group. The board of nursing may appoint, as appropriate, any of the additional persons recommended.

(D) The board of nursing shall specify the terms for the advisory group members. Members shall serve at the discretion of the board of nursing. Members shall receive their actual and necessary expenses incurred in the performance of their official duties.

(E) Section 101.84 of the Revised Code does not apply to the advisory group.

Sec. 4723.72. (A) A dialysis technician may engage in dialysis care by doing the following:

- (1) Performing and monitoring dialysis procedures, including initiating, monitoring, and discontinuing dialysis;
- (2) Drawing blood;
- (3) Administering any of the medications specified in division (C) of this section when the administration is essential to the dialysis process;
- (4) Responding to complications that arise during dialysis.

(B) A dialysis technician may provide the dialysis care specified in division (A) of this section only if the care has been delegated to the technician by a physician or registered nurse and the technician is under the supervision of a physician or registered nurse. Supervision requires that the dialysis technician be in the immediate presence of a physician or registered nurse, or, in the case of dialysis care provided in a patient's home, that the dialysis technician be supervised in accordance with the rules adopted under section 4723.79 of the Revised Code for supervision of dialysis technicians who provide dialysis care in a patient's home. Division (E)(5) of section 4723.73 of the Revised Code does not allow a dialysis technician who provides dialysis care in a patient's home to provide dialysis care that is not

authorized under this section.

(C) A dialysis technician may administer medication only as ordered by a licensed health professional authorized to prescribe drugs as defined in section 4729.01 of the Revised Code and in accordance with the standards established in rules adopted under section 4723.79 of the Revised Code. A dialysis technician may administer only the following medications:

(1) Intradermal lidocaine or other single therapeutically equivalent local anesthetic for the purpose of initiating dialysis treatment;

(2) Intravenous heparin or other single therapeutically equivalent anticoagulant for the purpose of initiating and maintaining dialysis treatment;

(3) Intravenous normal saline;

(4) Patient-specific dialysate, to which the person may add electrolytes but no other additives or medications.

Sec. 4723.73. (A) No person shall claim to the public to be a dialysis technician unless the person holds a current, valid certificate issued under section 4723.75 or renewed under section 4723.77 or a current, valid temporary certificate issued under section 4723.76 of the Revised Code.

(B) No person shall use the title "Ohio certified dialysis technician," the initials "OCDT," or any other title or initials to represent that the person is authorized to perform dialysis care as a fully certified dialysis technician, unless the person holds a current, valid certificate issued under section 4723.75 or renewed under section 4723.77 of the Revised Code.

(C) No person shall use any title or initials to represent that the person is authorized to perform dialysis care as a temporarily certified dialysis technician, unless the person holds a current, valid temporary certificate issued under section 4723.76 of the Revised Code.

(D) No dialysis technician shall engage in dialysis care in a manner that is inconsistent with section 4723.72 of the Revised Code.

(E) No person other than a dialysis technician shall engage in the dialysis care that is authorized by section 4723.72 of the Revised Code, unless one of the following applies:

(1) The person is a registered nurse or licensed practical nurse.

(2) The person is a physician.

(3) The person is a student performing dialysis care under the supervision of an instructor as an integral part of a dialysis training program approved by the board of nursing under section 4723.74 of the Revised Code.

(4) The person is a dialysis patient who has been trained to engage in the dialysis care with little or no professional assistance by completing a

edicare-approved self-dialysis or home dialysis training program.

(5) The person is a family member or friend of a dialysis patient who engages in self-dialysis or home dialysis, and the person engages in the dialysis care by assisting the patient in performing the self-dialysis or home dialysis, after the person providing the assistance has completed a Medicare-approved self-dialysis or home dialysis training program for the particular dialysis patient being assisted.

(F) No person shall operate a dialysis training program, unless the program is approved by the board of nursing under section 4723.74 of the Revised Code.

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.

Sec. 4723.75. (A) The board of nursing shall issue a 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 is eighteen years of age or older and possesses a high school diploma or high school equivalence diploma.

(3) The person meets the requirements established by the board's rules.

(4) The person demonstrates competency to practice as a dialysis technician, as specified under division (B) of this section.

(B) For a person to demonstrate competence to practice as a dialysis technician, one of the following must apply:

(1) The person meets all of the following requirements:

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

(b) The person has been employed to perform dialysis care by a dialysis provider for not less than twelve months prior to the date of application.

(c) The person passes a certification examination DEMONSTRATING COMPETENCE TO PERFORM DIALYSIS care. THE person MUST

PASS THE EXAMINATION NOT LATER THAN EIGHTEEN MONTHS AFTER ENTERING A DIALYSIS TRAINING PROGRAM APPROVED BY THE BOARD UNDER SECTION 4723.74 OF THE REVISED CODE. A person WHO DOES NOT PASS THE EXAMINATION WITHIN EIGHTEEN MONTHS AFTER ENTERING A DIALYSIS TRAINING PROGRAM MUST REPEAT AND SUCCESSFULLY COMPLETE THE TRAINING PROGRAM, OR SUCCESSFULLY COMPLETE ANOTHER DIALYSIS TRAINING PROGRAM APPROVED BY THE BOARD, AND PASS THE EXAMINATION NOT LESS THAN SIX MONTHS AFTER ENTERING THE NEW OR REPEATEd PROGRAM. A person WHO DOES NOT PASS THE EXAMINATION WITHIN SIX MONTHS AFTER ENTERING THE NEW OR REPEATEd PROGRAM MUST WAIT at least ONE YEAR BEFORE ENTERING OR REENTERING ANY DIALYSIS TRAINING PROGRAM APPROVED BY THE BOARD, AFTER WHICH THE person MUST SUCCESSFULLY COMPLETE A DIALYSIS TRAINING PROGRAM APPROVED BY THE BOARD AND PASS THE EXAMINATION NOT LATER THAN SIX MONTHS AFTER ENTERING THE PROGRAM.

(2) The person meets both of the following requirements:

(a) The person holds, on the effective date of this section, a current, valid certificate from a qualifying testing organization specified by the board under division (B) of section 4723.751 of the Revised Code or provides evidence satisfactory to the board of having passed the examination of a qualifying testing organization not longer than five years prior to the effective date of this section.

(b) The dialysis provider who employs the person provides the board with the information specified in rules adopted under section 4723.79 of the Revised Code attesting to the person's competence to perform dialysis care.

(3) The person submits evidence satisfactory to the board that the person holds a current, valid license, certificate, or other authorization to perform dialysis care issued by another state that has standards for dialysis technicians that the board considers substantially similar to those established under sections 4723.71 to 4723.79 of the Revised Code.

Sec. 4723.751. (A) The board of nursing shall either conduct dialysis technician certification examinations itself or, in accordance with rules adopted under section 4723.79 of the Revised Code, approve testing organizations to conduct the examinations. If it conducts the examinations, the board may use all or part of a standard examination created by a testing organization approved by the board. Regardless of who conducts it, the examination shall cover all of the subjects specified in rules adopted under

section 4723.79 of the Revised Code.

(B) The board shall specify the testing organizations that qualify a person to demonstrate competence to practice as a dialysis technician pursuant to division (B)(2) of section 4723.75 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, 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. 4723.77. A certificate issued under section 4723.75 of the Revised Code expires biennially and shall be renewed according to a schedule established by the board of nursing in rules adopted under section 4723.79 of the Revised Code. An application for renewal of a certificate shall be accompanied by the renewal fee established in rules adopted by the board under section 4723.79 of the Revised Code. A certificate may be renewed only if, during the period for which the certificate was issued, the certificate holder satisfied the continuing education requirements established by the board's rules.

Sec. 4723.78. (A) The board of nursing shall establish a dialysis registry that contains the following information:

(1) The names of, and other identifying information specified in rules adopted under section 4723.79 of the Revised Code about, the following:

(a) Persons who have enrolled in a dialysis training program approved by the board under section 4723.74 of the Revised Code;

(b) Persons who hold a current, valid certificate issued under section 4723.75 of the Revised Code;

(c) Persons who hold a current, valid temporary certificate issued under section 4723.76 of the Revised Code.

(2) The names and locations of the dialysis providers who employ the dialysis technicians listed in divisions (A)(1)(b) and (c) of this section.

(B) Persons shall provide to the board information that is to be included in the dialysis registry in accordance with rules adopted under section 4723.79 of the Revised Code.

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) 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 violates section 4723.03 ~~or~~, 4723.44, or 4723.73 of the Revised Code shall be fined five hundred dollars or imprisoned not more than ninety days or both.

SECTION 2. That existing sections 121.22, 4723.02, 4723.04, 4723.06,

23.07, 4723.08, 4723.271, 4723.28, 4723.281, 4723.282, 4723.34, 4723.341, 4723.35, 4723.63, and 4723.99 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act, except for sections 4723.72, 4723.73, 4723.79, and 4723.99 of the Revised Code, shall take effect one hundred eighty days after the effective date of this act. Sections 4723.72, 4723.73, and 4723.99 of the Revised Code, as amended and enacted by this act, shall take effect one year after the effective date of this act. Section 4723.79 of the Revised Code, as enacted by this act, shall take effect at the earliest time permitted by law.

SECTION 4. The Board of Nursing shall adopt the rules provided for in section 4723.79 of the Revised Code not later than one hundred eighty days after the effective date of this section. In adopting the rules, the Board shall consult with representatives designated by the Ohio Renal Association, the Ohio Renal Physicians Association, the National Association of Nephrology Technologists, the American Nephrology Nurses Association, and the Ohio Nurses Association.

SECTION 5. Notwithstanding the provision of section 4723.02 of the Revised Code that defines "dialysis technician" as an individual who holds a certificate to practice as a dialysis technician, the individuals initially appointed to the Advisory Group on Dialysis as dialysis technicians need not be certificate holders, but must meet all the requirements for receipt of a certificate.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

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

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____