

As Introduced

**124th General Assembly
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H. B. No. 288

REPRESENTATIVES Jones, Allen, Barrett, Britton, Ford

A B I L L

To amend sections 1337.11, 2133.01, 2305.234, 2925.01,
3709.161, 4759.01 to 4759.08, 4759.10, and 4769.01
and to enact section 4759.101 of the Revised Code
to license dietetic technicians; to add to the Ohio
Board of Dietetics a dietetic technician registered
with the Commission on Dietetic Registration and an
educator who prepares dietetic technicians to meet
requirements for licensure; and to extend the
application of other laws relative to dietitians to
dietetic technicians.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1337.11, 2133.01, 2305.234, 2925.01,
3709.161, 4759.01, 4759.02, 4759.03, 4759.04, 4759.05, 4759.06,
4759.07, 4759.08, 4759.10, and 4769.01 be amended and section
4759.101 of the Revised Code be enacted to read as follows:

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Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the
Revised Code:

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(A) "Adult" means a person who is eighteen years of age or
older.

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(B) "Attending physician" means the physician to whom a principal or the family of a principal has assigned primary responsibility for the treatment or care of the principal or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a principal, but not to postpone death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a principal, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of sections 1337.11 to 1337.17 of the Revised Code, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(F) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition.

(G) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.

(H) "Health care facility" means any of the following:	51
(1) A hospital;	52
(2) A hospice care program or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;	53 54 55
(3) A nursing home;	56
(4) A home health agency;	57
(5) An intermediate care facility for the mentally retarded.	58
(I) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, <u>dietetic technicians</u> , other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	59 60 61 62 63 64 65
(J) "Home health agency" has the same meaning as in section 3701.88 of the Revised Code.	66 67
(K) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.	68 69
(L) "Hospital" has the same meanings as in sections 2108.01, 3701.01, and 5122.01 of the Revised Code.	70 71
(M) "Hydration" means fluids that are artificially or technologically administered.	72 73
(N) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	74 75
(O) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.	76 77
(P) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered	78 79

to a principal, will serve principally to prolong the process of dying. 80
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(Q) "Medical claim" has the same meaning as in section 2305.11 of the Revised Code. 82
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(R) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code. 84
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(S) "Nutrition" means sustenance that is artificially or technologically administered. 86
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(T) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following: 88
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(1) Irreversible unawareness of one's being and environment-*i* 94
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(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering. 96
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(U) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities. 99
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(V) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 103
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(W) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code. 106
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(X) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct 108
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of health care personnel, including the state medical board and
the board of nursing.

(Y) "Terminal condition" means an irreversible, incurable,
and untreatable condition caused by disease, illness, or injury
from which, to a reasonable degree of medical certainty as
determined in accordance with reasonable medical standards by a
principal's attending physician and one other physician who has
examined the principal, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time
if life-sustaining treatment is not administered.

(Z) "Tort action" means a civil action for damages for
injury, death, or loss to person or property, other than a civil
action for damages for a breach of contract or another agreement
between persons.

Sec. 2133.01. Unless the context otherwise requires, as used
in sections 2133.01 to 2133.15 of the Revised Code:

(A) "Adult" means an individual who is eighteen years of age
or older.

(B) "Attending physician" means the physician to whom a
declarant or other patient, or the family of a declarant or other
patient, has assigned primary responsibility for the treatment or
care of the declarant or other patient, or, if the responsibility
has not been assigned, the physician who has accepted that
responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or
discomfort of a declarant or other patient, but not to postpone
the declarant's or other patient's death;

(2) Hydration when administered to diminish the pain or 139
discomfort of a declarant or other patient, but not to postpone 140
the declarant's or other patient's death; 141

(3) Any other medical or nursing procedure, treatment, 142
intervention, or other measure that is taken to diminish the pain 143
or discomfort of a declarant or other patient, but not to postpone 144
the declarant's or other patient's death. 145

(D) "Consulting physician" means a physician who, in 146
conjunction with the attending physician of a declarant or other 147
patient, makes one or more determinations that are required to be 148
made by the attending physician, or to be made by the attending 149
physician and one other physician, by an applicable provision of 150
this chapter, to a reasonable degree of medical certainty and in 151
accordance with reasonable medical standards. 152

(E) "Declarant" means any adult who has executed a 153
declaration in accordance with section 2133.02 of the Revised 154
Code. 155

(F) "Declaration" means a written document executed in 156
accordance with section 2133.02 of the Revised Code. 157

(G) "Durable power of attorney for health care" means a 158
document created pursuant to sections 1337.11 to 1337.17 of the 159
Revised Code. 160

(H) "Guardian" means a person appointed by a probate court 161
pursuant to Chapter 2111. of the Revised Code to have the care and 162
management of the person of an incompetent. 163

(I) "Health care facility" means any of the following: 164

(1) A hospital; 165

(2) A hospice care program or other institution that 166
specializes in comfort care of patients in a terminal condition or 167
in a permanently unconscious state; 168

(3) A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	169 170
(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;	171 172 173
(5) An intermediate care facility for the mentally retarded.	174
(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, <u>dietetic technicians</u> , other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	175 176 177 178 179 180 181
(K) "Home health agency" has the same meaning as in section 3701.88 of the Revised Code.	182 183
(L) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.	184 185
(M) "Hospital" has the same meanings as in sections 2108.01, 3701.01, and 5122.01 of the Revised Code.	186 187
(N) "Hydration" means fluids that are artificially or technologically administered.	188 189
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	190 191
(P) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.	192 193
(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying.	194 195 196 197

(R) "Nurse" means a person who is licensed to practice nursing as a registered nurse or to practice practical nursing as a licensed practical nurse pursuant to Chapter 4723. of the Revised Code.	198 199 200 201
(S) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	202 203
(T) "Nutrition" means sustenance that is artificially or technologically administered.	204 205
(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following:	206 207 208 209 210 211 212
(1) Irreversible unawareness of one's being and environment;	213 214
(2) Total loss of cerebral cortical functioning, resulting in the declarant or other patient having no capacity to experience pain or suffering.	215 216 217
(V) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.	218 219 220 221
(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	222 223 224
(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	225 226
(Y) "Professional disciplinary action" means action taken by	227

the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(Z) "Qualified patient" means an adult who has executed a declaration and has been determined to be in a terminal condition or in a permanently unconscious state.

(AA) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.11 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.11 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning

as in section 4731.65 of the Revised Code.	257
(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:	258
(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	259
(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	260
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	261
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	262
(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	263
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	264
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	265
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	266
(i) Dietitians <u>and dietetic technicians</u> licensed under Chapter 4759. of the Revised Code;	267
(j) Pharmacists licensed under Chapter 4729. of the Revised Code.	268
(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's	269
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activities, including medical technicians, medical assistants, 286
dental assistants, orderlies, aides, and individuals acting in 287
similar capacities. 288

(6) "Indigent and uninsured person" means a person who meets 289
all of the following requirements: 290

(a) The person's income is not greater than one hundred fifty 291
per cent of the current poverty line as defined by the United 292
States office of management and budget and revised in accordance 293
with section 673(2) of the "Omnibus Budget Reconciliation Act of 294
1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 295

(b) The person is not eligible to receive medical assistance 297
under Chapter 5111. of the Revised Code, disability assistance 298
medical assistance under Chapter 5115. of the Revised Code, or 299
assistance under any other governmental health care program. 300

(c) Either of the following applies: 301

(i) The person is not a policyholder, certificate holder, 302
insured, contract holder, subscriber, enrollee, member, 303
beneficiary, or other covered individual under a health insurance 304
or health care policy, contract, or plan. 305

(ii) The person is a policyholder, certificate holder, 306
insured, contract holder, subscriber, enrollee, member, 307
beneficiary, or other covered individual under a health insurance 308
or health care policy, contract, or plan, but the insurer, policy, 309
contract, or plan denies coverage or is the subject of insolvency 310
or bankruptcy proceedings in any jurisdiction. 311

(7) "Operation" means any procedure that involves cutting or 312
otherwise infiltrating human tissue by mechanical means, including 313
surgery, laser surgery, ionizing radiation, therapeutic 314
ultrasound, or the removal of intraocular foreign bodies. 315
"Operation" does not include the administration of medication by 316

injection, unless the injection is administered in conjunction 317
with a procedure infiltrating human tissue by mechanical means 318
other than the administration of medicine by injection. 319

(8) "Nonprofit shelter or health care facility" means a 320
charitable nonprofit corporation organized and operated pursuant 321
to Chapter 1702. of the Revised Code, or any charitable 322
organization not organized and not operated for profit, that 323
provides shelter, health care services, or shelter and health care 324
services to indigent and uninsured persons, except that "shelter 325
or health care facility" does not include a hospital as defined in 326
section 3727.01 of the Revised Code, a facility licensed under 327
Chapter 3721. of the Revised Code, or a medical facility that is 328
operated for profit. 329

(9) "Tort action" means a civil action for damages for 330
injury, death, or loss to person or property other than a civil 331
action for damages for a breach of contract or another agreement 332
between persons or government entities. 333

(10) "Volunteer" means an individual who provides any 334
medical, dental, or other health-care related diagnosis, care, or 335
treatment without the expectation of receiving and without receipt 336
of any compensation or other form of remuneration from an indigent 337
and uninsured person, another person on behalf of an indigent and 338
uninsured person, any shelter or health care facility, or any 339
other person or government entity. 340

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 341
health care professional who is a volunteer and complies with 342
division (B)(2) of this section is not liable in damages to any 343
person or government entity in a tort or other civil action, 344
including an action on a medical, dental, chiropractic, 345
optometric, or other health-related claim, for injury, death, or 346
loss to person or property that allegedly arises from an action or 347
omission of the volunteer in the provision at a nonprofit shelter 348

or health care facility to an indigent and uninsured person of 349
medical, dental, or other health-related diagnosis, care, or 350
treatment, including the provision of samples of medicine and 351
other medical products, unless the action or omission constitutes 352
willful or wanton misconduct. 353

(2) To qualify for the immunity described in division (B)(1) 354
of this section, a health care professional shall do all of the 355
following prior to providing diagnosis, care, or treatment: 356

(a) Determine, in good faith, that the indigent and uninsured 357
person is mentally capable of giving informed consent to the 358
provision of the diagnosis, care, or treatment and is not subject 359
to duress or under undue influence; 360

(b) Inform the person of the provisions of this section; 361

(c) Obtain the informed consent of the person and a written 362
waiver, signed by the person or by another individual on behalf of 363
and in the presence of the person, that states that the person is 364
mentally competent to give informed consent and, without being 365
subject to duress or under undue influence, gives informed consent 366
to the provision of the diagnosis, care, or treatment subject to 367
the provisions of this section. 368

(3) A physician or podiatrist who is not covered by medical 369
malpractice insurance, but complies with division (B)(2) of this 370
section, is not required to comply with division (A) of section 371
4731.143 of the Revised Code. 372

(C) Subject to divisions (E) and (F)(3) of this section, 373
health care workers who are volunteers are not liable in damages 374
to any person or government entity in a tort or other civil 375
action, including an action upon a medical, dental, chiropractic, 376
optometric, or other health-related claim, for injury, death, or 377
loss to person or property that allegedly arises from an action or 378
omission of the health care worker in the provision at a nonprofit 379

shelter or health care facility to an indigent and uninsured 380
person of medical, dental, or other health-related diagnosis, 381
care, or treatment, unless the action or omission constitutes 382
willful or wanton misconduct. 383

(D) Subject to divisions (E) and (F)(3) of this section and 384
section 3701.071 of the Revised Code, a nonprofit shelter or 385
health care facility associated with a health care professional 386
described in division (B)(1) of this section or a health care 387
worker described in division (C) of this section is not liable in 388
damages to any person or government entity in a tort or other 389
civil action, including an action on a medical, dental, 390
chiropractic, optometric, or other health-related claim, for 391
injury, death, or loss to person or property that allegedly arises 392
from an action or omission of the health care professional or 393
worker in providing for the shelter or facility medical, dental, 394
or other health-related diagnosis, care, or treatment to an 395
indigent and uninsured person, unless the action or omission 396
constitutes willful or wanton misconduct. 397

(E)(1) Except as provided in division (E)(2) of this section, 398
the immunities provided by divisions (B), (C), and (D) of this 399
section are not available to an individual or to a nonprofit 400
shelter or health care facility if, at the time of an alleged 401
injury, death, or loss to person or property, the individuals 402
involved are providing one of the following: 403

(a) Any medical, dental, or other health-related diagnosis, 404
care, or treatment pursuant to a community service work order 405
entered by a court under division (F) of section 2951.02 of the 406
Revised Code as a condition of probation or other suspension of a 407
term of imprisonment or imposed by a court as a community control 408
sanction pursuant to sections 2929.15 and 2929.17 of the Revised 409
Code; 410

(b) Performance of an operation; 411

(c) Delivery of a baby. 412

(2) Division (E)(1) of this section does not apply to an 413
individual who provides, or a nonprofit shelter or health care 414
facility at which the individual provides, diagnosis, care, or 415
treatment that is necessary to preserve the life of a person in a 416
medical emergency. 417

(F)(1) This section does not create a new cause of action or 418
substantive legal right against a health care professional, health 419
care worker, or nonprofit shelter or health care facility. 420

(2) This section does not affect any immunities from civil 421
liability or defenses established by another section of the 422
Revised Code or available at common law to which an individual or 423
a nonprofit shelter or health care facility may be entitled in 424
connection with the provision of emergency or other diagnosis, 425
care, or treatment. 426

(3) This section does not grant an immunity from tort or 427
other civil liability to an individual or a nonprofit shelter or 428
health care facility for actions that are outside the scope of 429
authority of health care professionals or health care workers. 430

(4) This section does not affect any legal responsibility of 431
a health care professional or health care worker to comply with 432
any applicable law of this state or rule of an agency of this 433
state. 434

(5) This section does not affect any legal responsibility of 435
a nonprofit shelter or health care facility to comply with any 436
applicable law of this state, rule of an agency of this state, or 437
local code, ordinance, or regulation that pertains to or regulates 438
building, housing, air pollution, water pollution, sanitation, 439
health, fire, zoning, or safety. 440

Sec. 2925.01. As used in this chapter: 441

(A) "Administer," "controlled substance," "dispense," 442
"distribute," "hypodermic," "manufacturer," "official written 443
order," "person," "pharmacist," "pharmacy," "sale," "schedule I," 444
"schedule II," "schedule III," "schedule IV," "schedule V," and 445
"wholesaler" have the same meanings as in section 3719.01 of the 446
Revised Code. 447

(B) "Drug dependent person" and "drug of abuse" have the same 448
meanings as in section 3719.011 of the Revised Code. 449

(C) "Drug," "dangerous drug," "licensed health professional 450
authorized to prescribe drugs," and "prescription" have the same 451
meanings as in section 4729.01 of the Revised Code. 452

(D) "Bulk amount" of a controlled substance means any of the 453
following: 454

(1) For any compound, mixture, preparation, or substance 455
included in schedule I, schedule II, or schedule III, with the 456
exception of marihuana, cocaine, L.S.D., heroin, and hashish and 457
except as provided in division (D)(2) or (5) of this section, 458
whichever of the following is applicable: 459

(a) An amount equal to or exceeding ten grams or twenty-five 460
unit doses of a compound, mixture, preparation, or substance that 461
is or contains any amount of a schedule I opiate or opium 462
derivative; 463

(b) An amount equal to or exceeding ten grams of a compound, 464
mixture, preparation, or substance that is or contains any amount 465
of raw or gum opium; 466

(c) An amount equal to or exceeding thirty grams or ten unit 467
doses of a compound, mixture, preparation, or substance that is or 468
contains any amount of a schedule I hallucinogen other than 469
tetrahydrocannabinol or lysergic acid amide, or a schedule I 470
stimulant or depressant; 471

(d) An amount equal to or exceeding twenty grams or five 472
times the maximum daily dose in the usual dose range specified in 473
a standard pharmaceutical reference manual of a compound, mixture, 474
preparation, or substance that is or contains any amount of a 475
schedule II opiate or opium derivative; 476

(e) An amount equal to or exceeding five grams or ten unit 477
doses of a compound, mixture, preparation, or substance that is or 478
contains any amount of phencyclidine; 479

(f) An amount equal to or exceeding one hundred twenty grams 480
or thirty times the maximum daily dose in the usual dose range 481
specified in a standard pharmaceutical reference manual of a 482
compound, mixture, preparation, or substance that is or contains 483
any amount of a schedule II stimulant that is in a final dosage 484
form manufactured by a person authorized by the "Federal Food, 485
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as 486
amended, and the federal drug abuse control laws, as defined in 487
section 3719.01 of the Revised Code, that is or contains any 488
amount of a schedule II depressant substance or a schedule II 489
hallucinogenic substance; 490

(g) An amount equal to or exceeding three grams of a 491
compound, mixture, preparation, or substance that is or contains 492
any amount of a schedule II stimulant, or any of its salts or 493
isomers, that is not in a final dosage form manufactured by a 494
person authorized by the Federal Food, Drug, and Cosmetic Act and 495
the federal drug abuse control laws. 496

(2) An amount equal to or exceeding one hundred twenty grams 497
or thirty times the maximum daily dose in the usual dose range 498
specified in a standard pharmaceutical reference manual of a 499
compound, mixture, preparation, or substance that is or contains 500
any amount of a schedule III or IV substance other than an 501
anabolic steroid or a schedule III opiate or opium derivative; 502

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III opiate or opium derivative;

(4) An amount equal to or exceeding two hundred fifty milliliters or two hundred fifty grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule V substance;

(5) An amount equal to or exceeding two hundred solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III anabolic steroid.

(E) "Unit dose" means an amount or unit of a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(F) "Cultivate" includes planting, watering, fertilizing, or tilling.

(G) "Drug abuse offense" means any of the following:

(1) A violation of division (A) of section 2913.02 that constitutes theft of drugs, or a violation of section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code;

(2) A violation of an existing or former law of this or any other state or of the United States that is substantially equivalent to any section listed in division (G)(1) of this section;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section.

(H) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

(2) Any aerosol propellant;

(3) Any fluorocarbon refrigerant;

(4) Any anesthetic gas.

(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical

synthesis, or compounding, or any combination of the same, and
includes packaging, repackaging, labeling, and other activities
incident to production.

(K) "Possess" or "possession" means having control over a
thing or substance, but may not be inferred solely from mere
access to the thing or substance through ownership or occupation
of the premises upon which the thing or substance is found.

(L) "Sample drug" means a drug or pharmaceutical preparation
that would be hazardous to health or safety if used without the
supervision of a licensed health professional authorized to
prescribe drugs, or a drug of abuse, and that, at one time, had
been placed in a container plainly marked as a sample by a
manufacturer.

(M) "Standard pharmaceutical reference manual" means the
current edition, with cumulative changes if any, of any of the
following reference works:

(1) "The National Formulary";

(2) "The United States Pharmacopeia," prepared by authority
of the United States Pharmacopeial Convention, Inc.;

(3) Other standard references that are approved by the state
board of pharmacy.

(N) "Juvenile" means a person under eighteen years of age.

(O) "Counterfeit controlled substance" means any of the
following:

(1) Any drug that bears, or whose container or label bears, a
trademark, trade name, or other identifying mark used without
authorization of the owner of rights to that trademark, trade
name, or identifying mark;

(2) Any unmarked or unlabeled substance that is represented
to be a controlled substance manufactured, processed, packed, or

distributed by a person other than the person that manufactured, 593
processed, packed, or distributed it; 594

(3) Any substance that is represented to be a controlled 595
substance but is not a controlled substance or is a different 596
controlled substance; 597

(4) Any substance other than a controlled substance that a 598
reasonable person would believe to be a controlled substance 599
because of its similarity in shape, size, and color, or its 600
markings, labeling, packaging, distribution, or the price for 601
which it is sold or offered for sale. 602

(P) An offense is "committed in the vicinity of a school" if 603
the offender commits the offense on school premises, in a school 604
building, or within one thousand feet of the boundaries of any 605
school premises. 606

(Q) "School" means any school operated by a board of 607
education or any school for which the state board of education 608
prescribes minimum standards under section 3301.07 of the Revised 609
Code, whether or not any instruction, extracurricular activities, 610
or training provided by the school is being conducted at the time 611
a criminal offense is committed. 612

(R) "School premises" means either of the following: 613

(1) The parcel of real property on which any school is 614
situated, whether or not any instruction, extracurricular 615
activities, or training provided by the school is being conducted 616
on the premises at the time a criminal offense is committed; 617

(2) Any other parcel of real property that is owned or leased 618
by a board of education of a school or the governing body of a 619
school for which the state board of education prescribes minimum 620
standards under section 3301.07 of the Revised Code and on which 621
some of the instruction, extracurricular activities, or training 622
of the school is conducted, whether or not any instruction, 623

extracurricular activities, or training provided by the school is 624
being conducted on the parcel of real property at the time a 625
criminal offense is committed. 626

(S) "School building" means any building in which any of the 627
instruction, extracurricular activities, or training provided by a 628
school is conducted, whether or not any instruction, 629
extracurricular activities, or training provided by the school is 630
being conducted in the school building at the time a criminal 631
offense is committed. 632

(T) "Disciplinary counsel" means the disciplinary counsel 633
appointed by the board of commissioners on grievances and 634
discipline of the supreme court under the Rules for the Government 635
of the Bar of Ohio. 636

(U) "Certified grievance committee" means a duly constituted 637
and organized committee of the Ohio state bar association or of 638
one or more local bar associations of the state of Ohio that 639
complies with the criteria set forth in Rule V, section 6 of the 640
Rules for the Government of the Bar of Ohio. 641

(V) "Professional license" means any license, permit, 642
certificate, registration, qualification, admission, temporary 643
license, temporary permit, temporary certificate, or temporary 644
registration that is described in divisions (W)(1) to (35) of this 645
section and that qualifies a person as a professionally licensed 646
person. 647

(W) "Professionally licensed person" means any of the 648
following: 649

(1) A person who has obtained a license as a manufacturer of 650
controlled substances or a wholesaler of controlled substances 651
under Chapter 3719. of the Revised Code; 652

(2) A person who has received a certificate or temporary 653
certificate as a certified public accountant or who has registered 654

- as a public accountant under Chapter 4701. of the Revised Code and 655
who holds an Ohio permit issued under that chapter; 656
- (3) A person who holds a certificate of qualification to 657
practice architecture issued or renewed and registered under 658
Chapter 4703. of the Revised Code; 659
- (4) A person who is registered as a landscape architect under 660
Chapter 4703. of the Revised Code or who holds a permit as a 661
landscape architect issued under that chapter; 662
- (5) A person licensed as an auctioneer or apprentice 663
auctioneer or licensed to operate an auction company under Chapter 664
4707. of the Revised Code; 665
- (6) A person who has been issued a certificate of 666
registration as a registered barber under Chapter 4709. of the 667
Revised Code; 668
- (7) A person licensed and regulated to engage in the business 669
of a debt pooling company by a legislative authority, under 670
authority of Chapter 4710. of the Revised Code; 671
- (8) A person who has been issued a cosmetologist's license, 672
manicurist's license, esthetician's license, managing 673
cosmetologist's license, managing manicurist's license, managing 674
esthetician's license, cosmetology instructor's license, 675
manicurist instructor's license, esthetician instructor's license, 676
or tanning facility permit under Chapter 4713. of the Revised 677
Code; 678
- (9) A person who has been issued a license to practice 679
dentistry, a general anesthesia permit, a conscious intravenous 680
sedation permit, a limited resident's license, a limited teaching 681
license, a dental hygienist's license, or a dental hygienist's 682
teacher's certificate under Chapter 4715. of the Revised Code; 683
- (10) A person who has been issued an embalmer's license, a 684

funeral director's license, a funeral home license, or a crematory	685
license, or who has been registered for an embalmer's or funeral	686
director's apprenticeship under Chapter 4717. of the Revised Code;	687
(11) A person who has been licensed as a registered nurse or	688
practical nurse, or who has been issued a certificate for the	689
practice of nurse-midwifery under Chapter 4723. of the Revised	690
Code;	691
(12) A person who has been licensed to practice optometry or	692
to engage in optical dispensing under Chapter 4725. of the Revised	693
Code;	694
(13) A person licensed to act as a pawnbroker under Chapter	695
4727. of the Revised Code;	696
(14) A person licensed to act as a precious metals dealer	697
under Chapter 4728. of the Revised Code;	698
(15) A person licensed as a pharmacist, a pharmacy intern, a	699
wholesale distributor of dangerous drugs, or a terminal	700
distributor of dangerous drugs under Chapter 4729. of the Revised	701
Code;	702
(16) A person who is authorized to practice as a physician	703
assistant under Chapter 4730. of the Revised Code;	704
(17) A person who has been issued a certificate to practice	705
medicine and surgery, osteopathic medicine and surgery, a limited	706
branch of medicine, or podiatry under Chapter 4731. of the Revised	707
Code;	708
(18) A person licensed as a psychologist or school	709
psychologist under Chapter 4732. of the Revised Code;	710
(19) A person registered to practice the profession of	711
engineering or surveying under Chapter 4733. of the Revised Code;	712
(20) A person who has been issued a license to practice	713
chiropractic under Chapter 4734. of the Revised Code;	714

- (21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code; 715
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- (22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code; 717
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- (23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code; 719
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- (24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code; 721
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- (25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code; 723
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- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code; 725
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- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code; 729
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- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code; 732
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- (29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code; 735
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- (30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code; 738
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- (31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code; 741
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- (32) A person who is licensed as a professional clinical 743

counselor or professional counselor, licensed as a social worker 744
or independent social worker, or registered as a social work 745
assistant under Chapter 4757. of the Revised Code; 746

(33) A person issued a license to practice dietetics as a 747
dietician or dietetic technician under Chapter 4759. of the 748
Revised Code; 749

(34) A person who has been issued a license or limited permit 750
to practice respiratory therapy under Chapter 4761. of the Revised 751
Code; 752

(35) A person who has been issued a real estate appraiser 753
certificate under Chapter 4763. of the Revised Code. 754

(X) "Cocaine" means any of the following: 755

(1) A cocaine salt, isomer, or derivative, a salt of a 756
cocaine isomer or derivative, or the base form of cocaine; 757

(2) Coca leaves or a salt, compound, derivative, or 758
preparation of coca leaves, including ecgonine, a salt, isomer, or 759
derivative of ecgonine, or a salt of an isomer or derivative of 760
ecgonine; 761

(3) A salt, compound, derivative, or preparation of a 762
substance identified in division (X)(1) or (2) of this section 763
that is chemically equivalent to or identical with any of those 764
substances, except that the substances shall not include 765
decocainized coca leaves or extraction of coca leaves if the 766
extractions do not contain cocaine or ecgonine. 767

(Y) "L.S.D." means lysergic acid diethylamide. 768

(Z) "Hashish" means the resin or a preparation of the resin 769
contained in marihuana, whether in solid form or in a liquid 770
concentrate, liquid extract, or liquid distillate form. 771

(AA) "Marihuana" has the same meaning as in section 3719.01 772
of the Revised Code, except that it does not include hashish. 773

(BB) An offense is "committed in the vicinity of a juvenile" 774
if the offender commits the offense within one hundred feet of a 775
juvenile or within the view of a juvenile, regardless of whether 776
the offender knows the age of the juvenile, whether the offender 777
knows the offense is being committed within one hundred feet of or 778
within view of the juvenile, or whether the juvenile actually 779
views the commission of the offense. 780

(CC) "Presumption for a prison term" or "presumption that a 781
prison term shall be imposed" means a presumption, as described in 782
division (D) of section 2929.13 of the Revised Code, that a prison 783
term is a necessary sanction for a felony in order to comply with 784
the purposes and principles of sentencing under section 2929.11 of 785
the Revised Code. 786

(DD) "Major drug offender" has the same meaning as in section 787
2929.01 of the Revised Code. 788

(EE) "Minor drug possession offense" means either of the 789
following: 790

(1) A violation of section 2925.11 of the Revised Code as it 791
existed prior to July 1, 1996; 792

(2) A violation of section 2925.11 of the Revised Code as it 793
exists on and after July 1, 1996, that is a misdemeanor or a 794
felony of the fifth degree. 795

(FF) "Mandatory prison term" has the same meaning as in 796
section 2929.01 of the Revised Code. 797

(GG) "Crack cocaine" means a compound, mixture, preparation, 798
or substance that is or contains any amount of cocaine that is 799
analytically identified as the base form of cocaine or that is in 800
a form that resembles rocks or pebbles generally intended for 801
individual use. 802

(HH) "Adulterate" means to cause a drug to be adulterated as 803

described in section 3715.63 of the Revised Code.

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Sec. 3709.161. (A) The board of health of a city or general health district may procure a policy or policies of insurance insuring the members of the board, the health commissioner, and the employees of the board against liability on account of damage or injury to persons and property resulting from any act or omission that occurs in the individual's official capacity as a member or employee of the board or resulting solely out of such membership or employment.

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(B)(1) As used in this division, "health care professional" means all of the following:

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(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

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(b) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

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(c) A person licensed under Chapter 4729. of the Revised Code to practice as a pharmacist;

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(d) A person authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

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(e) A person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

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(f) A psychologist licensed under Chapter 4732. of the Revised Code;

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(g) A veterinarian licensed under Chapter 4741. of the Revised Code;

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(h) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

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(i) An occupational therapist, physical therapist, physical

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therapist assistant, or athletic trainer licensed under Chapter 833
4755. of the Revised Code; 834

(j) A professional clinical counselor, professional 835
counselor, independent social worker, or social worker licensed 836
under Chapter 4757. of the Revised Code; 837

(k) A ~~dietician~~ dietitian or dietetic technician licensed 838
under Chapter 4759. of the Revised Code. 839

(2) The board of health of a city or general health district 840
may purchase liability insurance for a health care professional 841
with whom the board contracts for the provision of health care 842
services against liability on account of damage or injury to 843
persons and property arising from the health care professional's 844
performance of services under the contract. The policy shall be 845
purchased from an insurance company licensed to do business in 846
this state, if such a policy is available from such a company. The 847
board of health of a city or general health district shall report 848
the cost of the liability insurance policy and subsequent 849
increases in the cost to the director of health on a form 850
prescribed by the director. 851

Sec. 4759.01. As used in this chapter: 852

(A) "The practice of dietetics" means any of the following: 853

(1) Nutritional assessment to determine nutritional needs and 854
to recommend appropriate nutritional intake, including enteral and 855
parenteral nutrition; 856

(2) Nutritional counseling or education as components of 857
preventive, curative, and restorative health care; 858

(3) Development, administration, evaluation, and consultation 859
regarding nutritional care standards. 860

(B) "The American dietetic association" means the national 861

professional organization of dietitians and dietetic technicians 862
that provides direction and leadership for quality dietetic 863
practice, education, and research. 864

(C) "Commission on dietetic registration" means the 865
commission on dietetic registration that is a member of the 866
national commission on health certifying agencies. 867

(D) "Licensed dietetic technician" means both of the 868
following: 869

(1) A person licensed under this chapter to practice 870
dietetics under the supervision of a licensed dietitian or a 871
registered dietitian; 872

(2) A dietetic technician licensed under this chapter who is 873
also registered as a dietetic technician by the commission on 874
dietetic registration and who practices dietetics under the 875
supervision of a licensed dietitian or a registered dietitian. 876

(E) "Licensed dietitian" means a person licensed under this 877
chapter to practice dietetics. A "licensed dietitian" may also be 878
a registered dietitian. 879

(F) "Registered dietitian" means a dietitian who is currently 880
registered as a dietitian by the commission on dietetic 881
registration. 882

(G) "Nutrition assistant" means a person who holds a two-year 883
certificate of exemption to practice dietetics under the 884
supervision of a licensed dietitian or a registered dietitian. 885

Sec. 4759.02. (A) Except as otherwise provided in this 886
section or in section 4759.10 of the Revised Code, no person shall 887
practice, offer to practice, or hold ~~himself~~ the person's self 888
forth to practice dietetics, including practice that occurs in 889
diverse health systems and community-based settings, unless ~~he has~~ 890
~~been licensed~~ the person holds either of the following: 891

(1) An active dietitian license issued under section 4759.06 892
of the Revised Code; 893

(2) An active dietetic technician license issued under 894
section 4759.06 of the Revised Code and practices dietetics only 895
under the supervision of a licensed dietitian or a registered 896
dietitian who practices dietetics in this state. 897

(B)(1) Except for a licensed dietitian holding an inactive 898
license who does not practice or offer to practice dietetics, ~~or a~~ 899
~~person~~ licensed dietitian holding an active license under section 900
4759.06 of the Revised Code, or as otherwise provided in this 901
section or in section 4759.10 of the Revised Code: 902

~~(1)~~(a) No person shall use the title "dietitian"; and 903

~~(2)~~(b) No person except for a person licensed under Chapters 904
4701. to 4755. of the Revised Code, acting within the scope of the 905
person's practice, shall use any other title, designation, words, 906
letters, abbreviation, or insignia or combination of any title, 907
designation, words, letters, abbreviation, or insignia tending to 908
indicate that the person is practicing dietetics. 909

(2) Except for a dietetic technician holding an active 910
license issued under section 4759.06 of the Revised Code, a 911
dietetic technician holding an inactive license who does not 912
practice or offer to practice dietetics, or as otherwise provided 913
in this section or in section 4759.10 of the Revised Code: 914

(a) No person shall use the title "dietetic technician"; 915

(b) No person, except for a person licensed under Chapters 916
4701. to 4755. of the Revised Code, ~~when~~ acting within the scope 917
of ~~their~~ the person's practice, shall use any other title, 918
designation, words, letters, abbreviation, or insignia or 919
combination of any title, designation, words, letters, 920
abbreviation, or insignia tending to indicate that the person is 921
practicing dietetics as a deitetic technician. 922

(C) Notwithstanding division (B) of this section, a :	923
(1) A person who is a dietitian registered by the commission on dietetic registration and who does not violate division (A) of this section may use the designation "registered dietitian" and the abbreviation "R.D."	924 925 926 927
(2) <u>A person who is a dietetic technician registered by the commission on dietetic registration who does not violate division (A) of this section may use the designation "dietetic technician registered" and the abbreviation "D.T.R."</u>	928 929 930 931
(D) Division (A) of this section does not apply to:	932
(1) A student enrolled in an academic program that is in compliance with division (A)(5) <u>(a)</u> or (A)(6) <u>(a)</u> of section 4759.06 of the Revised Code who is engaging in the practice of dietetics under the supervision of a dietitian licensed under section 4759.06 of the Revised Code or a dietitian registered by the commission on dietetic registration, as part of the academic program;	933 934 935 936 937 938 939
(2) A person participating in the pre-professional experience required by division (A)(5) <u>(b)</u> or (A)(6) <u>(a)</u> of section 4759.06 of the Revised Code;	940 941 942
(3) A person holding a limited permit under division (F) of section 4759.06 of the Revised Code.	943 944
(E) Divisions (A) and (B) of this section do not apply to a person who performs no more than fifteen days of dietetic practice in the state, <u>cumulatively since 1987</u> , and who meets at least one of the following requirements:	945 946 947 948
(1) The Ohio board of dietetics determines that he <u>the person</u> is licensed <u>as a dietitian or as a dietetic technician</u> in another state with licensure requirements equivalent to or more stringent than those set forth in this chapter;	949 950 951 952

(2) ~~He~~ The person is a dietitian or dietetic technician 953
registered by the commission on dietetic registration and resides 954
in another state that either has no dietitian or dietetic 955
technician licensure requirements or has licensure requirements 956
less stringent than those set forth in this chapter. 957

Sec. 4759.03. There is hereby created the Ohio board of 958
dietetics consisting of ~~five~~ seven members appointed by the 959
governor with the advice and consent of the senate. The Ohio 960
dietetic association may submit a list of five names for each 961
position or vacancy on the board to be filled by a dietitian or 962
dietetic technician registered, and the governor may make ~~his~~ 963
appointment appointments from the persons so recommended or from 964
other persons. ~~Within thirty days of the effective date of this~~ 965
~~section, the governor shall make initial appointments to the~~ 966
~~board. Of~~ 967

Of the initial five appointments, one shall be for a term 968
~~ending one year after the effective date of this section~~ July 1, 969
1988, one shall be for a term ending ~~two years after the effective~~ 970
~~date of this section~~ July 1, 1989, one shall be for a term ending 971
~~three years after the effective date of this section~~ July 1, 1990, 972
one shall be for a term ending ~~four years after the effective date~~ 973
~~of this section~~ July 1, 1991, and one shall be for a term ending 974
~~five years after the effective date of this section. Thereafter,~~ 975
July 1, 1992. The governor shall appoint two additional members 976
not later than thirty days after the effective date of this 977
amendment, one for a term ending July 1, 2004, and one for a term 978
ending July 1, 2005. After the term of an initial member expires, 979
the terms of office for all successors shall be for five years, 980
each term ending on the ~~same~~ first day of ~~the same month as did~~ 981
~~the term which it succeeds~~ July. Each member shall hold office 982
from the date of ~~his~~ appointment until the end of the term for 983
which ~~he~~ the member was appointed. The governor shall appoint a 984

member to fill a vacancy in the manner prescribed for filling the 985
position in which the vacancy occurs. Any member appointed to fill 986
a vacancy occurring prior to the expiration of the term for which 987
~~his~~ the member's predecessor was appointed shall hold office for 988
the remainder of the term. Any member shall continue in office 989
subsequent to the expiration date of ~~his~~ the member's term until 990
~~his~~ the member's successor takes office, or until a period of 991
sixty days has elapsed, whichever occurs first. 992

Members of the board may be removed by the governor for 993
malfeasance, misfeasance, or nonfeasance after an adjudication 994
hearing pursuant to Chapter 119. of the Revised Code. Members may 995
not be appointed to a second term unless a period of five years 996
has passed since the expiration of the first term, except that 997
members appointed for less than a five-year term or appointed to 998
fill an unexpired term may be appointed for one full term of five 999
years immediately following the end of ~~the that~~ term ~~for which he~~ 1000
~~was first appointed.~~ 1001

Three members of the board shall be dietitians who have been 1002
actively engaged in the practice of dietetics in the state for at 1003
least five years immediately preceding their appointment; one 1004
member shall be a dietetic technician registered with the 1005
commission on dietetic registration who has been actively engaged 1006
in the practice of dietetics for at least three years preceding 1007
the member's appointment; one member shall be an educator with a 1008
master's or higher degree who holds a full-time faculty 1009
appointment in a two-year program that prepares student dietetic 1010
technicians to meet the requirements of division (A)(6) of section 1011
4759.06 of the Revised Code; one member shall be an educator with 1012
a doctoral degree who holds a regular faculty appointment in a 1013
program that prepares dietitian students to meet the requirements 1014
of division (A)(5) of section 4759.06 of the Revised Code; and one 1015
member shall be a member of the general public who is not and 1016

never has been a dietitian or dietetic technician, is not a member 1017
of the immediate family of a dietitian or dietetic technician, 1018
does not have a financial interest in the provision of goods or 1019
services to dietitians or dietetic technicians, and is not engaged 1020
in any activity related to the practice of dietetics. 1021

Each member of the board shall receive an amount fixed 1022
pursuant to division (J) of section 124.15 of the Revised Code for 1023
each day, or portion thereof, ~~he is~~ actually engaged in the 1024
discharge of ~~his~~ official duties, and shall be reimbursed for 1025
actual and necessary expenses incurred in the performance of those 1026
duties. 1027

Sec. 4759.04. The Ohio board of dietetics shall meet at least 1028
once annually and at other times as determined by the board, upon 1029
the call of the ~~chairman~~ chairperson, or upon the written request 1030
to the ~~executive secretary~~ director of the board by two or more 1031
members of the board. ~~Three~~ Five members of the board constitute a 1032
quorum to conduct business, and no action shall be taken without 1033
the concurrence of at least ~~three~~ five members. 1034

At the first meeting of each calendar year, the board shall 1035
elect a ~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson 1036
from among its members. The board shall designate ~~an executive~~ 1037
~~secretary~~ a director and may employ other employees or 1038
consultants, or contract, subject to the approval of the 1039
controlling board, with a state agency or nonprofit corporation as 1040
necessary to carry out this chapter and rules adopted under it 1041
pursuant to Chapter 119. of the Revised Code. 1042

Sec. 4759.05. (A) The Ohio board of dietetics shall~~+~~ 1043

~~(A) Adopt~~ adopt, amend, or rescind rules pursuant to Chapter 1044
119. of the Revised Code to carry out the provisions of this 1045
chapter, including rules governing the following: 1046

(1) Selection and approval of ~~a dietitian and dietetic technician~~ licensure ~~examination~~ examinations offered by the commission on dietetic registration or any other ~~examination~~ examinations;
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(2) The examination of applicants for licensure as ~~a dietitian~~ dieticians and dietetic technicians, to be held at least twice annually, as required under division (A) of section 4759.06 of the Revised Code;
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(3) Requirements for pre-professional dietetic experience of applicants for licensure as ~~a dietitian~~ dieticians and dietetic technicians that are at least equivalent to the requirements adopted by the commission on dietetic registration;
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(4) Requirements for ~~a person~~ persons holding ~~a limited permit~~ permits under ~~division~~ divisions (E) and (F) of section 4759.06 of the Revised Code, including the duration of ~~validity of~~ a limited permit;
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(5) Requirements for ~~a licensed dietitian~~ dieticians and dietetic technicians who ~~places a license~~ place their licenses in inactive status under division (G) of section 4759.06 of the Revised Code, including a procedure for changing inactive status to active status;
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(6) Continuing education and professional development requirements for renewal of ~~a license~~ dietician and dietetic technician licenses, except that the board may adopt rules to waive the requirements for a person who is unable to meet the requirements due to illness or other reasons. Rules adopted under ~~this~~ division (A)(6) of this section shall be consistent with the continuing education and professional development requirements adopted by the commission on dietetic registration.
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(7) Any additional education requirements the board considers necessary, for applicants for dietician and dietetic technician
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licenses who have not practiced dietetics within five years of the 1078
initial date of application for licensure; 1079

(8) Standards of professional responsibility and practice for 1080
persons licensed as dietitians and dietetic technicians under this 1081
chapter that are consistent with those standards of professional 1082
responsibility and practice adopted by the American dietetic 1083
association; 1084

(9) Formulation of a written application form for licensure 1085
or license renewal that includes the statement that any applicant 1086
who knowingly makes a false statement on the application is guilty 1087
of a misdemeanor of the first degree under section 2921.13 of the 1088
Revised Code; 1089

(10) Procedures for license renewal; 1090

(11) Establishing a time period after the notification of a 1091
violation of section 4759.02 of the Revised Code, by which the 1092
person notified must request a hearing by the board under section 1093
4759.09 of the Revised Code; 1094

(12) Standards for supervision of licensed dietetic 1095
technicians by licensed dietitians. 1096

(B) ~~Investigate~~ The board shall investigate alleged 1097
violations of ~~section 4759.02 to 4759.10 of the Revised Code~~ this 1098
chapter. In making its investigations, the board may issue 1099
subpoenas, examine witnesses, and administer oaths. 1100

(C) ~~Adopt~~ The board shall adopt a seal; 1101

(D) ~~Conduct~~ The board shall conduct meetings and keep records 1102
as ~~are~~ necessary to carry out the provisions of this chapter; 1103

(E) ~~Publish~~ The board shall publish, and make available to 1104
the public; upon request and for a fee not to exceed the actual 1105
cost of printing and mailing, the board's rules and requirements 1106
for licensure adopted under division (A) of this section and a 1107

record of all persons licensed as dietitians and dietetic 1108
technicians under section 4759.06 of the Revised Code. 1109

Sec. 4759.06. (A) The Ohio board of dietetics shall issue or 1110
renew a license to practice dietetics to an applicant who: 1111

(1) Has satisfactorily completed an application for licensure 1112
in accordance with rules adopted under division (A) of section 1113
4759.05 of the Revised Code; 1114

(2) Has paid the fee required under division (A) of section 1115
4759.08 of the Revised Code; 1116

(3) Is a resident of the state or performs or plans to 1117
perform dietetic services within the state; 1118

(4) Is of good moral character; 1119

(5) ~~Has received~~ If applying for a dietitian license, has 1120
done all of the following: 1121

(a) Received a baccalaureate or higher degree from an 1122
institution of higher education that is approved by the board or a 1123
regional accreditation agency that is recognized by the ~~council~~ 1124
commission on recognition of postsecondary accreditation, and has 1125
completed a program consistent with the academic standards for 1126
dietitians established by the American dietetic association; 1127

~~(6) Has successfully~~ (b) Successfully completed a 1128
pre-professional dietetic experience approved by the American 1129
dietetic association, or experience approved by the board under 1130
rules adopted pursuant to division (A)(3) of section 4759.05 of 1131
the Revised Code; 1132

~~(7) Has passed~~ (c) Passed the examination approved for 1133
dietitians by the board under division (A)(1) of section 4759.05 1134
of the Revised Code; 1135

~~(8) Is an applicant.~~ 1136

(6) If applying for a dietetic technician license, has done 1137
all of the following: 1138

(a) Received an associate or higher degree from an 1139
institution of higher education that is approved by the board or a 1140
regional accreditation agency that is recognized by the commission 1141
on recognition of postsecondary accreditation and completed a 1142
program consistent with the academic standards for dietetic 1143
technicians established by the American dietetic association that 1144
includes pre-professional dietetic experience; 1145

(b) Passed the examination for dietetic technicians approved 1146
by the board under division (A)(1) of section 4759.05 of the 1147
Revised Code. 1148

(7) If applying for renewal of a license, and has fulfilled 1149
the applicable continuing education and professional development 1150
requirements adopted under division (A)(6) of section 4759.05 of 1151
the Revised Code. 1152

(B) The board ~~shall~~ may waive the requirements of divisions 1153
(A)(5), and (6), ~~and~~ (7) of this section and any rules adopted 1154
under division (A)(7) of section 4759.05 of the Revised Code if 1155
the: 1156

(1) An applicant for registration as a registered dietitian 1157
presents satisfactory evidence to the board of current 1158
registration as a registered dietitian with the commission on 1159
dietetic registration; 1160

(2) An applicant for a dietetic technician license submits 1161
all of the following to the board not later than one year after 1162
the effective date of this amendment: 1163

(a) A completed license application; 1164

(b) The fee required under section 4759.08 of the Revised 1165
Code; 1166

(c) Evidence satisfactory to the board that the applicant, prior to the effective date of this amendment, graduated from an associate or higher degree program approved by the American dietetic association or the board and practiced dietetics under the supervision of a licensed dietitian or a registered dietitian immediately preceding application. 1167
1168
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(C) The board shall waive the requirements of ~~division~~ 1173
divisions (A)(7)(5)(c) and (A)(6)(b) of this section if the 1174
application for renewal is made within two years after the date of 1175
license expiration. 1176

(D) The board may waive the requirements of division (A)(5)~~7~~ 1177
or (6), or (7) of this section or any rules adopted under division 1178
(A)(7) of section 4759.05 of the Revised Code, if the applicant 1179
presents satisfactory evidence of education, experience, or 1180
passing an examination in another state or a foreign country, that 1181
the board ~~considers~~ determines are the equivalent of the 1182
requirements ~~stated in those divisions or rules~~ sought to be 1183
waived. 1184

(E) The board shall issue an initial license to practice 1185
dietetics as a dietitian or dietetic technician to an applicant 1186
who meets the requirements of ~~division (A)~~ of this section. An 1187
initial license shall be valid from the date of issuance through 1188
the thirtieth day of June following issuance of the license. Each 1189
subsequent license shall be valid from the first day of July 1190
through the thirtieth day of June. The board shall renew the 1191
license of an applicant who is licensed to practice dietetics and 1192
who meets the continuing education or professional development 1193
requirements ~~of~~ adopted under division (A)(6) of section 4759.05 1194
of the Revised Code. The renewal shall be pursuant to the standard 1195
renewal procedure of ~~sections 4745.01 to 4745.03~~ Chapter 4745. of 1196
the Revised Code. 1197

(F) The board may grant a limited permit to a person who has 1198

completed the education and pre-professional requirements of 1199
divisions (A)(5) ~~and~~ or (6) of this section and who presents 1200
evidence to the board of having applied to take the appropriate 1201
examination approved by the board under division (A)(1) of section 1202
4759.05 of the Revised Code. A person holding a limited permit who 1203
has failed the examination shall practice only under the direct 1204
supervision of a licensed dietitian. 1205

(G) A licensed dietitian or licensed dietetic technician may 1206
place the license in inactive status. 1207

Sec. 4759.07. (A) The Ohio board of dietetics may, in 1208
accordance with Chapter 119. of the Revised Code, refuse to issue, 1209
review, or renew, or may suspend, revoke, or impose probationary 1210
conditions upon, any license or permit to practice dietetics as a 1211
dietitian or dietetic technician, if the applicant has done any of 1212
the following: 1213

(1) Violated ~~sections 4759.02 to 4759.10 of the Revised Code~~ 1214
this chapter or rules adopted under ~~those sections~~ it; 1215

(2) Knowingly made a false statement in ~~his~~ an application 1216
for licensure or license renewal; 1217

(3) Been convicted of or pleaded guilty to any crime 1218
constituting a felony in this or any other state; 1219

(4) Been impaired in ~~his~~ the ability to perform as a licensed 1220
dietitian or licensed dietetic technician due to the use of a 1221
controlled substance or alcoholic beverage; 1222

(5) Been convicted of or pleaded guilty to a misdemeanor 1223
committed in the course of ~~his~~ work as a dietitian or dietetic 1224
technician in this or any other state; 1225

(6) A Accrued a record of incompetent or negligent conduct in 1226
~~his~~ the practice of dietetics as a dietitian or dietetic 1227
technician. 1228

(B) One year or more after the date of suspension or 1229
revocation of a license or permit, an application for 1230
reinstatement of the license or permit may be made to the board. 1231
The board shall grant or deny reinstatement with a hearing, at the 1232
request of the applicant, in accordance with Chapter 119. of the 1233
Revised Code and may impose conditions upon the reinstatement, 1234
including the requirement of passing an examination approved by 1235
the board. 1236

Sec. 4759.08. (A) The Ohio board of dietetics shall charge 1237
and collect fees as described in this section for issuing the 1238
following: 1239

(1) An ~~application for an~~ initial dietitian license, or an 1240
application for ~~reinstatement~~ reactivation of an inactive license, 1241
one hundred ten dollars for a dietitian and eighty dollars for a 1242
dietetic technician, and for reinstatement of a lapsed, revoked, 1243
or suspended license, one hundred sixty-five dollars for a 1244
dietitian and one hundred twenty dollars for a dietetic 1245
technician; 1246

(2) License renewal, eighty dollars for a dietitian and sixty 1247
dollars for a dietetic technician; 1248

(3) A limited permit, ~~and renewal of the permit,~~ fifty-five 1249
dollars for a dietitian and forty dollars for a dietetic 1250
technician; 1251

(4) A duplicate license or permit, twenty dollars for a 1252
dietitian or a dietetic technician; 1253

(5) For processing a late application for renewal of any 1254
license or permit, an additional fee equal to fifty per cent of 1255
the fee for the renewal. 1256

(B) The board shall not require a licensed dietitian or 1257
dietetic technician holding an inactive license to pay the renewal 1258

fee. 1259

(C) Subject to the approval of the controlling board, the 1260
~~Ohio board of dietetics~~ may establish fees in excess of the 1261
amounts provided in division (A) of this section, provided that 1262
the fees do not exceed the amounts by greater than fifty per cent. 1263

(D) The board may adopt rules pursuant to Chapter 119. of the 1264
Revised Code to waive all or part of the fee for an initial 1265
license if the license is issued ~~within one hundred days of the~~ 1266
~~date of expiration of the license~~ after the thirty-first day of 1267
March. 1268

(E) All receipts of the board shall be deposited in the state 1269
treasury to the credit of the occupational licensing and 1270
regulatory fund. All vouchers of the board shall be approved by 1271
the chairperson or ~~secretary~~ director of the board, or both, as 1272
authorized by the board. 1273

Sec. 4759.10. Sections 4759.01 to 4759.09 of the Revised Code 1274
do not apply to any of the following: 1275

(A) A person licensed under Chapters 4701. to 4755. of the 1276
Revised Code who is acting within the scope of the person's 1277
profession, provided that the person complies with division (B) of 1278
section 4759.02 of the Revised Code; 1279

(B) ~~A person who is a graduate of an associate degree program~~ 1280
~~approved by the American dietetic association or the Ohio board of~~ 1281
~~dietetics who is working as a dietetic technician under the~~ 1282
~~supervision of a dietitian licensed under section 4759.06 of the~~ 1283
~~Revised Code or registered by the commission on dietetic~~ 1284
~~registration, except that the person is subject to division (B) of~~ 1285
~~section 4759.02 of the Revised Code if the person uses a title~~ 1286
~~other than "dietetic technician";~~ 1287

(C) A person who practices dietetics related to employment in 1288

the armed forces, ~~veteran's~~ the veterans administration, or the 1289
public health service of the United States; 1290

~~(D) Persons~~ (C) A person employed by a nonprofit agency 1291
approved by the board or by a federal, state, municipal, or county 1292
government, or by any other political subdivision, elementary or 1293
secondary school, or an institution of higher education approved 1294
by the board or by a regional agency recognized by the ~~council~~ 1295
commission on recognition of postsecondary accreditation, who 1296
performs only nutritional education activities and such other 1297
nutritional activities as the board of ~~dietetics~~, by rule, 1298
permits, provided the person does not violate division (B) of 1299
section 4759.02 of the Revised Code; 1300

~~(E) A person who has completed a program meeting the academic~~ 1301
~~standards set by the American dietetic association for dietitians,~~ 1302
~~received a baccalaureate or higher degree from a school, college,~~ 1303
~~or university approved by a regional accreditation agency~~ 1304
~~recognized by the council on postsecondary accreditation, works~~ 1305
~~under the supervision of a licensed dietitian or registered~~ 1306
~~dietitian, and does not violate division (B) of section 4759.02 of~~ 1307
~~the Revised Code;~~ 1308

~~(F)~~(D) A person who holds a current, valid nutrition 1309
assistant certificate of exemption issued under section 4759.101 1310
of the Revised Code, practices dietetics only under the 1311
supervision of a dietitian licensed under section 4759.06 of the 1312
Revised Code or a registered dietitian, and uses only the title 1313
"nutrition assistant." 1314

(E) A person when acting, under the direction and supervision 1315
of a person licensed under Chapters 4701. to 4755. of the Revised 1316
Code, in the execution of a plan of treatment authorized by the 1317
licensed person, provided the person complies with division (B) of 1318
section 4759.02 of the Revised Code; 1319

~~(G)~~(F) The free dissemination or sale of literature in the 1320

state; 1321

~~(H)~~(G) Provided that the persons involved in the sale, 1322
promotion, or explanation of the sale of food, food materials, or 1323
dietary supplements do not violate division (B) of section 4759.02 1324
of the Revised Code, the sale of food, food materials, or dietary 1325
supplements and the marketing and distribution of food, food 1326
materials, or dietary supplements and the promotion or explanation 1327
of the use of food, food materials, or dietary supplements 1328
provided that the promotion or explanation does not violate 1329
Chapter 1345. of the Revised Code; 1330

~~(I)~~(H) A person who offers dietary supplements for sale and 1331
who makes the following statements about the product if the 1332
statements are consistent with the dietary supplement's label or 1333
labeling: 1334

(1) Claim a benefit related to a classical nutrient 1335
deficiency disease and disclose the prevalence of the disease in 1336
the United States; 1337

(2) Describe the role of a nutrient or dietary ingredient 1338
intended to affect the structure or function of the human body; 1339

(3) Characterize the documented mechanism by which a nutrient 1340
or dietary ingredient acts to maintain the structure or function 1341
of the human body; 1342

(4) Describe general well-being from the consumption of a 1343
nutrient or dietary ingredient. 1344

~~(J)~~(I) Provided that the persons involved in presenting a 1345
general program of instruction for weight control do not violate 1346
division (B) of section 4759.02 of the Revised Code, a general 1347
program of instruction for weight control approved in writing by a 1348
licensed dietitian, a physician licensed under Chapter 4731. of 1349
the Revised Code to practice medicine or surgery or osteopathic 1350
medicine or surgery, a person licensed as a dietitian in another 1351

state that the board considers to have substantially equivalent 1352
dietitian licensure requirements as this state, or a registered 1353
dietitian; 1354

~~(K)~~(J) The continued practice of dietetics at a hospital by a 1355
person employed at that same hospital to practice dietetics for 1356
the twenty years immediately prior to July 1, 1987, so long as the 1357
person works under the supervision of a dietitian licensed under 1358
section 4759.06 of the Revised Code and does not violate division 1359
(B) of section 4759.02 of the Revised Code. This division does not 1360
apply to any person who has held a license issued under this 1361
chapter to practice dietetics as a dietitian or dietetic 1362
technician. As used in this division, "hospital" has the same 1363
meaning as in section 3727.01 of the Revised Code. 1364

Sec. 4759.101. (A) The Ohio board of dietetics may issue a 1365
nutrition assistant certificate of exemption to a person who, in a 1366
completed application prescribed by the board, presents evidence 1367
of all of the following: 1368

(1) Completion of a program meeting the academic standards 1369
set by the American dietetic association for dietitians resulting 1370
in the receipt of a baccalaureate or higher degree from a school, 1371
college, or university approved by a regional accreditation agency 1372
recognized by the commission on recognition of postsecondary 1373
accreditation. 1374

(2) Supervision by a licensed dietitian, including the name, 1375
title, license number, and professional address of the licensed 1376
dietitian who will supervise the applicant during the period of 1377
exemption. 1378

(B) A certificate of exemption as a nutrition assistant is 1379
effective for two years from the date of issuance and is not 1380
renewable. 1381

(C) If there is a change in supervision, the holder of a 1382

nutrition assistant certificate of exemption shall, prior to the 1383
change or immediately thereafter, report to the board the name, 1384
title, license number, and professional address of the licensed 1385
dietitian who will provide supervision. 1386

(D) The use of a title other than nutrition assistant while 1387
practicing as a nutrition assistant is a violation of division (B) 1388
of section 4759.02 of the Revised Code. 1389

(E) The board may revoke a nutrition assistant certificate of 1390
exemption for practice other than under the supervision of a 1391
licensed dietitian or for another violation of this section. All 1392
actions to deny or revoke a certificate of exemption shall be 1393
taken in accordance with Chapter 119. of the Revised Code. 1394

Sec. 4769.01. As used in this chapter: 1395

(A) "Medicare" means the program established by Title XVIII 1396
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1397
301, as amended. 1398

(B) "Balance billing" means charging or collecting from a 1399
medicare beneficiary an amount in excess of the medicare 1400
reimbursement rate for medicare-covered services or supplies 1401
provided to a medicare beneficiary, except when medicare is the 1402
secondary insurer. When medicare is the secondary insurer, the 1403
health care practitioner may pursue full reimbursement under the 1404
terms and conditions of the primary coverage and, if applicable, 1405
the charge allowed under the terms and conditions of the 1406
appropriate provider contract, from the primary insurer, but the 1407
medicare beneficiary cannot be balance billed above the medicare 1408
reimbursement rate for a medicare-covered service or supply. 1409
"Balance billing" does not include charging or collecting 1410
deductibles or coinsurance required by the program. 1411

(C) "Health care practitioner" means all of the following: 1412

(1) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	1413 1414
(2) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	1415 1416
(3) An optometrist licensed under Chapter 4725. of the Revised Code;	1417 1418
(4) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;	1419 1420 1421 1422
(5) A pharmacist licensed under Chapter 4729. of the Revised Code;	1423 1424
(6) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	1425 1426 1427
(7) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	1428 1429
(8) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;	1430 1431
(9) A psychologist licensed under Chapter 4732. of the Revised Code;	1432 1433
(10) A chiropractor licensed under Chapter 4734. of the Revised Code;	1434 1435
(11) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	1436 1437
(12) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	1438 1439
(13) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	1440 1441

(14) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	1442 1443
(15) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	1444 1445 1446 1447
(16) A dietitian <u>or dietetic technician</u> licensed under Chapter 4759. of the Revised Code;	1448 1449
(17) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	1450 1451
(18) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	1452 1453 1454 1455
Section 2. That existing sections 1337.11, 2133.01, 2305.234, 2925.01, 3709.161, 4759.01, 4759.02, 4759.03, 4759.04, 4759.05, 4759.06, 4759.07, 4759.08, 4759.10, and 4769.01 of the Revised Code are hereby repealed.	1456 1457 1458 1459
Section 3. Sections 4759.02 and 4759.10 of the Revised Code, as amended by this act, shall take effect one year after the effective date of this act.	1460 1461 1462