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Am. Sub. S. B. No. 80

**Senators Stivers, Hottinger, Goodman, Wachtmann, Amstutz,
Randy Gardner, Austria, Nein, Schuring, Armbruster, Coughlin, Carey,
Harris, Mumper, Schuler**

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Reidelbach, Schaffer, Schmidt, Schneider, Setzer, G. Smith, Taylor, Trakas,
Wagner, Webster, White, Widener, Widowfield, Wolpert**

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A B I L L

To amend sections 1533.18, 1701.76, 1701.82, 1775.14, 1
2117.06, 2125.02, 2125.04, 2305.01, 2305.03, 2
2305.10, 2305.113, 2305.234, 2305.25, 2307.011, 3
2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 4
2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 5
2315.34, 2315.36, 2323.51, 2505.02, 3719.81, 6
4507.07 4513.263, 4713.02, 4715.42, 4723.01, 7
4723.03, 4723.28, 4723.43, 4723.44, 4723.48, 8
4723.482, 4729.01, and 4731.22; to enact sections 9
901.52, 1519.07, 2305.131, 2305.36, 2307.711, 10
2307.97, 2315.18, 2315.19, 2315.20, and 2323.44; 11
and to repeal sections 2315.41, 2315.42, 2315.43, 12
2315.44, 2315.45, and 2315.46 of the Revised Code 13
to make changes related to the award of certain 14
damages, collateral benefits evidence, and 15
contributory fault in tort actions; to establish a 16
statute of repose for certain product liability 17
claims and claims based on unsafe conditions of 18

real property improvements and to make other 19
changes related to product liability claims; to 20
provide that the product liability statutes are 21
intended to abrogate common law product liability 22
causes of action; to enact a conflicts of law 23
provision for statutes of limitation in civil 24
actions; to modify the provisions on frivolous 25
conduct in filing civil actions; to make other 26
changes related to civil actions; to provide 27
qualified immunity from civil damages for food 28
manufacturers, sellers, and trade associations for 29
claims resulting from a person's cumulative 30
consumption, obesity, or weight gain or any health 31
condition related to cumulative consumption, 32
obesity, or weight gain; to prohibit imputing any 33
assurances or assumption of liability regarding 34
public access to premises used for growing 35
agricultural produce; to preclude assumption of 36
liability regarding the use of recreational 37
trails; to modify the civil immunity for health 38
care professionals and health care workers; to 39
specify the nurses who may refer to themselves as 40
advanced practice nurses; to eliminate obsolete 41
references to pilot programs for advanced practice 42
nurses; to establish limitations on successor 43
asbestos-related liabilities relating to 44
corporations; and to require the State Dental 45
Board to issue volunteer certificates to retired 46
dental practitioners upon submission of a complete 47
application. 48

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

Section 1. That sections 1533.18, 1701.76, 1701.82, 1775.14, 49
2117.06, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.113, 50
2305.234, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 51
2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 52
2315.36, 2323.51, 2505.02, 3719.81, 4507.07, 4513.263, 4713.02, 53
4715.42, 4723.01, 4723.03, 4723.28, 4723.43, 4723.44, 4723.48, 54
4723.482, 4729.01, and 4731.22 be amended and sections 901.52, 55
1519.07, 2305.131, 2305.36, 2307.711, 2307.97, 2315.18, 2315.19, 56
2315.20, and 2323.44 of the Revised Code be enacted to read as 57
follows: 58

Sec. 901.52. (A) As used in this section, "tort action" has 59
the same meaning as in section 2305.35 of the Revised Code. 60

(B) In a tort action, in the absence of willful or wanton 61
misconduct or intentionally tortious conduct, no owner, lessee, 62
renter, or operator of premises that are open to the public for 63
direct access to growing agricultural produce shall be imputed to 64
do either of the following: 65

(1) Extend any assurance to a person that the premises are 66
safe from naturally occurring hazards merely by the act of giving 67
permission to the person to enter the premises or by receiving 68
consideration for the produce picked by the person; 69

(2) Assume responsibility or liability for injury, death, or 70
loss to person or property allegedly resulting from the natural 71
condition of the terrain of the premises or from the condition of 72
the terrain resulting from cultivation of soil. 73

Sec. 1519.07. (A) As used in this section: 74

(1) "Intentional tort" means an injury to person or property 75
that the tortfeasor intentionally caused, to which the tortfeasor 76
intentionally contributed, or that the tortfeasor knew or believed 77

was substantially certain to result from the tortfeasor's conduct.

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(2) "Premises" means a parcel of land together with any waters, buildings, or structures on it that is privately owned and that is directly adjacent to a recreational trail.

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(3) "Recreational trail" means a public trail that is used for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel and that interconnects state parks, forests, wildlife areas, nature preserves, scenic rivers, or other places of scenic or historic interest.

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(4) "User of a recreational trail" means a person who, in the course of using a recreational trail, enters on premises without first obtaining express permission to be there from the owner, lessee, or occupant of the premises.

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(B)(1) An owner, lessee, or occupant of premises does not owe any duty to a user of a recreational trail to keep the premises safe for entry or use by a user of a recreational trail.

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(2) An owner, lessee, or occupant of premises does not assume, has no responsibility for, does not incur liability for, and is not liable for any injury to person or property caused by any act of a user of a recreational trail.

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(C) This section does not apply to intentional torts.

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Sec. 1533.18. As used in sections 1533.18 and 1533.181 of the Revised Code:

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(A) "Premises" means all privately-owned lands, ways, and waters, and any buildings and structures thereon, and all privately owned and state-owned lands, ways, and waters leased to a private person, firm, or organization, including any buildings and structures thereon.

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(B) "Recreational user" means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, swim, operate a snowmobile or all-purpose vehicle, or engage in other recreational pursuits.

(C) "All-purpose vehicle" has the same meaning as in section 4519.01 of the Revised Code.

Sec. 1701.76. (A)(1) Provided the provisions of Chapter 1704. of the Revised Code do not prevent the transaction from being effected, a lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets, with or without the good will, of a corporation, if not made in the usual and regular course of its business, may be made upon ~~such~~ the terms and conditions and for ~~such~~ the consideration, ~~which~~ that may consist, in whole or in part, of money or other property of any description, including shares or other securities or promissory obligations of any other corporation, domestic or foreign, ~~as~~ that may be authorized as follows:

(a) By the directors, either before or after authorization by the shareholders as required in this section; and

(b) At a meeting of the shareholders held for ~~such~~ that purpose, by the affirmative vote of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on ~~such~~ the proposal, or, if the articles so provide or permit, by the affirmative vote of a greater or lesser proportion, but not less than a majority, of ~~such~~ the voting power, and by ~~such~~ the affirmative vote of the holders of shares of any particular class ~~as~~ that is required by the articles.

(2) At the shareholder meeting described in division 138
(A)(1)(b) of this section or at any subsequent shareholder 139
meeting, shareholders, by the same vote that is required to 140
authorize the lease, sale, exchange, transfer, or other 141
disposition of all, or substantially all, of the assets, with or 142
without the good will, of the corporation, may grant authority to 143
the directors to establish or amend any of the terms and 144
conditions of the transaction, except that the shareholders shall 145
not authorize the directors to do any of the following: 146

(a) Alter or change the amount or kind of shares, securities, 147
money, property, or rights to be received in exchange for the 148
assets; 149

(b) Alter or change to any material extent the amount or kind 150
of liabilities to be assumed in exchange for the assets; 151

(c) Alter or change any other terms and conditions of the 152
transaction if any of the alterations or changes, alone or in the 153
aggregate, would materially adversely affect the shareholders or 154
the corporation. 155

(3) Notice of the meeting of the shareholders described in 156
division (A)(1)(b) of this section shall be given to all 157
shareholders whether or not entitled to vote at the meeting and 158
shall be accompanied by a copy or summary of the terms of the 159
transaction. 160

(B) The corporation by its directors may abandon ~~such~~ the 161
transaction under this section, subject to the contract rights of 162
other persons, if the power of abandonment is conferred upon the 163
directors either by the terms of the transaction or by the same 164
vote of shareholders and at the same meeting of shareholders as 165
that referred to in division (A)(1)(b) of this section or at any 166
subsequent meeting. 167

(C) Dissenting holders of shares of any class, whether or not 168

entitled to vote, shall be entitled to relief under section 169
1701.85 of the Revised Code. 170

(D) An action to set aside a conveyance by a corporation, on 171
the ground that any section of the Revised Code applicable to the 172
lease, sale, exchange, transfer, or other disposition of all, or 173
substantially all, of the assets of ~~such~~ that corporation has not 174
been complied with, shall be brought within ninety days after ~~such~~ 175
that transaction, or ~~such~~ the action shall be forever barred. 176

(E) If a resolution of dissolution is adopted pursuant to 177
section 1701.86 of the Revised Code, the directors may dispose of 178
all, or substantially all, of the corporation's assets without the 179
necessity of a shareholders' authorization under this section. 180

(F) The terms and conditions of any transaction under this 181
section shall be subject to the limitations specified in section 182
2307.97 of the Revised Code. 183

Sec. 1701.82. (A) When a merger or consolidation becomes 184
effective, all of the following apply: 185

(1) The separate existence of each constituent entity other 186
than the surviving entity in a merger shall cease, except that 187
whenever a conveyance, assignment, transfer, deed, or other 188
instrument or act is necessary to vest property or rights in the 189
surviving or new entity, the officers, general partners, or other 190
authorized representatives of the respective constituent entities 191
shall execute, acknowledge, and deliver ~~such~~ those instruments and 192
do ~~such~~ those acts. For these purposes, the existence of the 193
constituent entities and the authority of their respective 194
officers, directors, general partners, or other authorized 195
representatives is continued notwithstanding the merger or 196
consolidation. 197

(2) In the case of a consolidation, the new entity exists 198

when the consolidation becomes effective and, if it is a domestic
corporation, the articles contained in or provided for in the
agreement of consolidation shall be its original articles. In the
case of a merger in which the surviving entity is a domestic
corporation, the articles of the domestic surviving corporation in
effect immediately prior to the time the merger becomes effective
shall continue as its articles after the merger except as
otherwise provided in the agreement of merger.

(3) The surviving or new entity possesses all assets and
property of every description, and every interest in the assets
and property, wherever located, and the rights, privileges,
immunities, powers, franchises, and authority, of a public as well
as of a private nature, of each constituent entity, and, subject
to the limitations specified in section 2307.97 of the Revised
Code, all obligations belonging to or due to each constituent
entity, all of which are vested in the surviving or new entity
without further act or deed. Title to any real estate or any
interest in the real estate vested in any constituent entity shall
not revert or in any way be impaired by reason of such merger or
consolidation.

(4) ~~The~~ Subject to the limitations specified in section
2307.97 of the Revised Code, the surviving or new entity is liable
for all the obligations of each constituent entity, including
liability to dissenting shareholders. Any claim existing or any
action or proceeding pending by or against any constituent entity
may be prosecuted to judgment, with right of appeal, as if the
merger or consolidation had not taken place, or the surviving or
new entity may be substituted in its place.

(5) ~~All~~ Subject to the limitations specified in section
2307.97 of the Revised Code, all the rights of creditors of each
constituent entity are preserved unimpaired, and all liens upon
the property of any constituent entity are preserved unimpaired,

on only the property affected by ~~such~~ those liens immediately 231
prior to the effective date of the merger or consolidation. If a 232
general partner of a constituent partnership is not a general 233
partner of the entity surviving or the new entity resulting from 234
the merger or consolidation, then the former general partner shall 235
have no liability for any obligation incurred after the merger or 236
consolidation except to the extent that a former creditor of the 237
constituent partnership in which the former general partner was a 238
partner extends credit to the surviving or new entity reasonably 239
believing that the former general partner continued as a general 240
partner of the surviving or new entity. 241

(B) If a general partner of a constituent partnership is not 242
a general partner of the entity surviving or the new entity 243
resulting from the merger or consolidation, the provisions of 244
division (B) of section 1782.434 of the Revised Code shall apply. 245

(C) In the case of a merger of a domestic constituent 246
corporation into a foreign surviving corporation, limited 247
liability company, or limited partnership that is not licensed or 248
registered to transact business in this state or in the case of a 249
consolidation of a domestic constituent corporation into a new 250
foreign corporation, limited liability company, or limited 251
partnership, if the surviving or new entity intends to transact 252
business in this state and the certificate of merger or 253
consolidation is accompanied by the information described in 254
division (B)(4) of section 1701.81 of the Revised Code, then, on 255
the effective date of the merger or consolidation, the surviving 256
or new entity shall be considered to have complied with the 257
requirements for procuring a license or for registering to 258
transact business in this state as a foreign corporation, limited 259
liability company, or limited partnership, as the case may be. In 260
such a case, a copy of the certificate of merger or consolidation 261
certified by the secretary of state constitutes the license 262

certificate prescribed by the laws of this state for a foreign 263
corporation transacting business in this state or the application 264
for registration prescribed for a foreign limited partnership or 265
limited liability company. 266

(D) Any action to set aside any merger or consolidation on 267
the ground that any section of the Revised Code applicable to the 268
merger or consolidation has not been complied with shall be 269
brought within ninety days after the effective date of ~~such~~ that 270
merger or consolidation or be forever barred. 271

(E) As used in this section, "corporation" or "entity" 272
applies to both domestic and foreign corporations and entities 273
where the context so permits. In the case of a foreign constituent 274
entity or a foreign new entity, this section is subject to the 275
laws of the state under the laws of which the entity exists or in 276
which it has property. 277

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised 278
Code and except as provided in division (B) of this section, all 279
partners are liable as follows: 280

(1) Jointly and severally for everything chargeable to the 281
partnership under sections 1775.12 and 1775.13 of the Revised 282
Code. This joint and several liability is not subject to section 283
2307.22, or 2315.36, ~~or 2315.46~~ of the Revised Code with respect 284
to a ~~negligence or other~~ tort claim that otherwise is subject to 285
~~any~~ either of those sections. 286

(2) Jointly for all other debts and obligations of the 287
partnership, but any partner may enter into a separate obligation 288
to perform a partnership contract. 289

(B) Subject to divisions (C)(1) and (2) of this section or as 290
otherwise provided in a written agreement between the partners of 291
a registered limited liability partnership, a partner in a 292

registered limited liability partnership is not liable, directly 293
or indirectly, by way of indemnification, contribution, 294
assessment, or otherwise, for debts, obligations, or other 295
liabilities of any kind of, or chargeable to, the partnership or 296
another partner or partners arising from negligence or from 297
wrongful acts, errors, omissions, or misconduct, whether or not 298
intentional or characterized as tort, contract, or otherwise, 299
committed or occurring while the partnership is a registered 300
limited liability partnership and committed or occurring in the 301
course of the partnership business by another partner or an 302
employee, agent, or representative of the partnership. 303

(C)(1) Division (B) of this section does not affect the 304
liability of a partner in a registered limited liability 305
partnership for that partner's own negligence, wrongful acts, 306
errors, omissions, or misconduct, including that partner's own 307
negligence, wrongful acts, errors, omissions, or misconduct in 308
directly supervising any other partner or any employee, agent, or 309
representative of the partnership. 310

(2) Division (B) of this section shall not affect the 311
liability of a partner for liabilities imposed by Chapters 5735., 312
5739., 5743., and 5747. and section 3734.908 of the Revised Code. 313

(D) A partner in a registered limited liability partnership 314
is not a proper party to an action or proceeding by or against a 315
registered limited liability partnership with respect to any debt, 316
obligation, or other liability of any kind described in division 317
(B) of this section, unless the partner is liable under divisions 318
(C)(1) and (2) of this section. 319

Sec. 2117.06. (A) All creditors having claims against an 320
estate, including claims arising out of contract, out of tort, on 321
cognovit notes, or on judgments, whether due or not due, secured 322
or unsecured, liquidated or unliquidated, shall present their 323

claims in one of the following manners: 324

(1) After the appointment of an executor or administrator and 325
prior to the filing of a final account or a certificate of 326
termination, in one of the following manners: 327

(a) To the executor or administrator in a writing; 328

(b) To the executor or administrator in a writing, and to the 329
probate court by filing a copy of the writing with it; 330

(c) In a writing that is sent by ordinary mail addressed to 331
the decedent and that is actually received by the executor or 332
administrator within the appropriate time specified in division 333
(B) of this section. For purposes of this division, if an executor 334
or administrator is not a natural person, the writing shall be 335
considered as being actually received by the executor or 336
administrator only if the person charged with the primary 337
responsibility of administering the estate of the decedent 338
actually receives the writing within the appropriate time 339
specified in division (B) of this section. 340

(2) If the final account or certificate of termination has 341
been filed, in a writing to those distributees of the decedent's 342
estate who may share liability for the payment of the claim. 343

(B) Except as provided in section 2117.061 of the Revised 344
Code, all claims shall be presented within six months after the 345
death of the decedent, whether or not the estate is released from 346
administration or an executor or administrator is appointed during 347
that six-month period. Every claim presented shall set forth the 348
claimant's address. 349

(C) Except as provided in section 2117.061 of the Revised 350
Code, a claim that is not presented within six months after the 351
death of the decedent shall be forever barred as to all parties, 352
including, but not limited to, devisees, legatees, and 353

distributees. No payment shall be made on the claim and no action shall be maintained on the claim, except as otherwise provided in sections 2117.37 to 2117.42 of the Revised Code with reference to contingent claims.

(D) In the absence of any prior demand for allowance, the executor or administrator shall allow or reject all claims, except tax assessment claims, within thirty days after their presentation, provided that failure of the executor or administrator to allow or reject within that time shall not prevent the executor or administrator from doing so after that time and shall not prejudice the rights of any claimant. Upon the allowance of a claim, the executor or the administrator, on demand of the creditor, shall furnish the creditor with a written statement or memorandum of the fact and date of the allowance.

(E) If the executor or administrator has actual knowledge of a pending action commenced against the decedent prior to the decedent's death in a court of record in this state, the executor or administrator shall file a notice of the appointment of the executor or administrator in the pending action within ten days after acquiring that knowledge. If the administrator or executor is not a natural person, actual knowledge of a pending suit against the decedent shall be limited to the actual knowledge of the person charged with the primary responsibility of administering the estate of the decedent. Failure to file the notice within the ten-day period does not extend the claim period established by this section.

(F) This section applies to any person who is required to give written notice to the executor or administrator of a motion or application to revive an action pending against the decedent at the date of the death of the decedent.

(G) Nothing in this section or in section 2117.07 of the

Revised Code shall be construed to reduce the ~~time mentioned~~ 385
periods of limitation or periods prior to repose in section 386
2125.02, ~~2305.09, 2305.10, 2305.11, 2305.113,~~ or ~~2305.12~~ Chapter 387
2305. of the Revised Code, provided that no portion of any 388
recovery on a claim brought pursuant to that section or any ~~of~~ 389
~~those sections~~ section in that chapter shall come from the assets 390
of an estate unless the claim has been presented against the 391
estate in accordance with Chapter 2117. of the Revised Code. 392

(H) Any person whose claim has been presented and has not 393
been rejected after presentment is a creditor as that term is used 394
in Chapters 2113. to 2125. of the Revised Code. Claims that are 395
contingent need not be presented except as provided in sections 396
2117.37 to 2117.42 of the Revised Code, but, whether presented 397
pursuant to those sections or this section, contingent claims may 398
be presented in any of the manners described in division (A) of 399
this section. 400

(I) If a creditor presents a claim against an estate in 401
accordance with division (A)(1)(b) of this section, the probate 402
court shall not close the administration of the estate until that 403
claim is allowed or rejected. 404

(J) The probate court shall not require an executor or 405
administrator to make and return into the court a schedule of 406
claims against the estate. 407

(K) If the executor or administrator makes a distribution of 408
the assets of the estate pursuant to section 2113.53 of the 409
Revised Code and prior to the expiration of the time for the 410
presentation of claims as set forth in this section, the executor 411
or administrator shall provide notice on the account delivered to 412
each distributee that the distributee may be liable to the estate 413
if a claim is presented prior to the filing of the final account 414
and may be liable to the claimant if the claim is presented after 415

the filing of the final account up to the value of the 416
distribution and may be required to return all or any part of the 417
value of the distribution if a valid claim is subsequently made 418
against the estate within the time permitted under this section. 419

Sec. 2125.02. (A)(1) Except as provided in this division, ~~an~~ 420
a civil action for wrongful death shall be brought in the name of 421
the personal representative of the decedent for the exclusive 422
benefit of the surviving spouse, the children, and the parents of 423
the decedent, all of whom are rebuttably presumed to have suffered 424
damages by reason of the wrongful death, and for the exclusive 425
benefit of the other next of kin of the decedent. A parent who 426
abandoned a minor child who is the decedent shall not receive ~~any~~ 427
a benefit in a wrongful-death civil action for wrongful death 428
brought under this division. 429

(2) The jury, or the court if the civil action for wrongful 430
death is not tried to a jury, may award damages authorized by 431
division (B) of this section, as it determines are proportioned to 432
the injury and loss resulting to the beneficiaries described in 433
division (A)(1) of this section by reason of the wrongful death 434
and may award the reasonable funeral and burial expenses incurred 435
as a result of the wrongful death. In its verdict, the jury or 436
court shall set forth separately the amount, if any, awarded for 437
the reasonable funeral and burial expenses incurred as a result of 438
the wrongful death. 439

(3)(a) The date of the decedent's death fixes, subject to 440
division (A)(3)(b)(iii) of this section, the status of all 441
beneficiaries of the civil action for wrongful death for purposes 442
of determining the damages suffered by them and the amount of 443
damages to be awarded. A person who is conceived prior to the 444
decedent's death and who is born alive after the decedent's death 445
is a beneficiary of the action. 446

(b)(i) In determining the amount of damages to be awarded, 447
the jury or court may consider all factors existing at the time of 448
the decedent's death that are relevant to a determination of the 449
damages suffered by reason of the wrongful death. 450

(ii) Consistent with the Rules of Evidence, ~~any~~ a party to ~~an~~ 451
a civil action for wrongful death may present evidence of the cost 452
of an annuity in connection with ~~any~~ an issue of recoverable 453
future damages. If ~~such~~ that evidence is presented, then, in 454
addition to the factors described in division (A)(3)(b)(i) of this 455
section and, if applicable, division (A)(3)(b)(iii) of this 456
section, the jury or court may consider that evidence in 457
determining the future damages suffered by reason of the wrongful 458
death. If ~~such~~ that evidence is presented, the present value in 459
dollars of ~~any~~ an annuity is its cost. 460

(iii) Consistent with the Rules of Evidence, ~~any~~ a party to 461
~~an~~ a civil action for wrongful death may present evidence that the 462
surviving spouse of the decedent is remarried. If ~~such~~ that 463
evidence is presented, then, in addition to the factors described 464
in divisions (A)(3)(b)(i) and (ii) of this section, the jury or 465
court may consider that evidence in determining the damages 466
suffered by the surviving spouse by reason of the wrongful death. 467

(B) Compensatory damages may be awarded in ~~an~~ a civil action 468
for wrongful death and may include damages for the following: 469

(1) Loss of support from the reasonably expected earning 470
capacity of the decedent; 471

(2) Loss of services of the decedent; 472

(3) Loss of the society of the decedent, including loss of 473
companionship, consortium, care, assistance, attention, 474
protection, advice, guidance, counsel, instruction, training, and 475
education, suffered by the surviving spouse, ~~minor~~ dependent 476
children, parents, or next of kin of the decedent; 477

(4) Loss of prospective inheritance to the decedent's heirs 478
at law at the time of the decedent's death; 479

(5) The mental anguish incurred by the surviving spouse, 480
~~minor~~ dependent children, parents, or next of kin of the decedent. 481

(C) A personal representative appointed in this state, with 482
the consent of the court making the appointment and at any time 483
before or after the commencement of ~~an~~ a civil action for wrongful 484
death, may settle with the defendant the amount to be paid. 485

(D) ~~An~~ (1) Except as provided in division (D)(2) of this 486
section, a civil action for wrongful death shall be commenced 487
within two years after the decedent's death. 488

(2)(a) Except as otherwise provided in divisions (D)(2)(b), 489
(c), (d), (e), (f), and (g) of this section or in section 2125.04 490
of the Revised Code, no cause of action for wrongful death 491
involving a product liability claim shall accrue against the 492
manufacturer or supplier of a product later than ten years from 493
the date that the product was delivered to its first purchaser or 494
first lessee who was not engaged in a business in which the 495
product was used as a component in the production, construction, 496
creation, assembly, or rebuilding of another product. 497

(b) Division (D)(2)(a) of this section does not apply if the 498
manufacturer or supplier of a product engaged in fraud in regard 499
to information about the product and the fraud contributed to the 500
harm that is alleged in a product liability claim involving that 501
product. 502

(c) Division (D)(2)(a) of this section does not bar a civil 503
action for wrongful death involving a product liability claim 504
against a manufacturer or supplier of a product who made an 505
express, written warranty as to the safety of the product that was 506
for a period longer than ten years and that, at the time of the 507
decedent's death, has not expired in accordance with the terms of 508

that warranty.

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(d) If the decedent's death occurs during the ten-year period described in division (D)(2)(a) of this section but less than two years prior to the expiration of that period, a civil action for wrongful death involving a product liability claim may be commenced within two years after the decedent's death.

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(e) If the decedent's death occurs during the ten-year period described in division (D)(2)(a) of this section and the claimant cannot commence an action during that period due to a disability described in section 2305.16 of the Revised Code, a civil action for wrongful death involving a product liability claim may be commenced within two years after the disability is removed.

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(f)(i) Division (D)(2)(a) of this section does not bar a civil action for wrongful death based on a product liability claim against a manufacturer or supplier of a product if the product involved is a substance or device described in division (B)(1), (2), (3), or (4) of section 2305.10 of the Revised Code and the decedent's death resulted from exposure to the product during the ten-year period described in division (D)(2)(a) of this section.

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(ii) If division (D)(2)(f)(i) of this section applies regarding a civil action for wrongful death, the cause of action that is the basis of the action accrues upon the date on which the claimant is informed by competent medical authority that the decedent's death was related to the exposure to the product or upon the date on which by the exercise of reasonable diligence the claimant should have known that the decedent's death was related to the exposure to the product, whichever date occurs first. A civil action for wrongful death based on a cause of action described in division (D)(2)(f)(i) of this section shall be commenced within two years after the cause of action accrues and shall not be commenced more than two years after the cause of

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action accrues.

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(g) Division (D)(2)(a) of this section does not bar a civil
action for wrongful death based on a product liability claim
against a manufacturer or supplier of a product if the product
involved is a substance or device described in division (B)(5) of
section 2315.10 of the Revised Code. If division (D)(2)(g) of this
section applies regarding a civil action for wrongful death, the
cause of action that is the basis of the action accrues upon the
date on which the claimant is informed by competent medical
authority that the decedent's death was related to the exposure to
the product or upon the date on which by the exercise of
reasonable diligence the claimant should have known that the
decedent's death was related to the exposure to the product,
whichever date occurs first. A civil action for wrongful death
based on a cause of action described in division (D)(2)(g) of this
section shall be commenced within two years after the cause of
action accrues and shall not be commenced more than two years
after the cause of action accrues.

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(E)(1) If the personal representative of a deceased minor has
actual knowledge or reasonable cause to believe that the minor was
abandoned by a parent seeking to benefit from ~~the a civil action~~
for wrongful death action or if any person listed in division
(A)(1) of this section who is permitted to benefit ~~in~~ from a civil
action for wrongful death action filed commenced in relation to a
deceased minor has actual knowledge or reasonable cause to believe
that the minor was abandoned by a parent seeking to benefit from
the ~~wrongful death~~ action, the personal representative or the
person may file a motion in the court in which the ~~wrongful death~~
action is ~~filed~~ filed commenced requesting the court to issue an order
finding that the parent abandoned the ~~child~~ minor and is not
entitled to recover damages in the ~~wrongful death~~ action based on
the death of the ~~deceased~~ minor ~~child~~.

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(2) The movant who files a motion described in division 572
(E)(1) of this section shall name the parent who abandoned the 573
~~child~~ deceased minor and, whether or not that parent is a resident 574
of this state, the parent shall be served with a summons and a 575
copy of the motion in accordance with the Rules of Civil 576
Procedure. Upon the filing of the motion, the court shall conduct 577
a hearing. In the hearing on the motion, the movant has the burden 578
of proving, by a preponderance of the evidence, that the parent 579
abandoned the ~~deceased~~ minor ~~child~~. If, at the hearing, the court 580
finds that the movant has sustained that burden of proof, the 581
court shall issue an order that includes its ~~finding~~ findings that 582
the parent abandoned the ~~deceased~~ minor ~~child~~ and that, because of 583
the prohibition set forth in division (A)(1) of this section, the 584
parent is not entitled to recover damages in the ~~wrongful-death~~ 585
action based on the death of the ~~deceased~~ minor ~~child~~. 586

(3) A motion requesting a court to issue an order finding 587
that ~~the~~ a specified parent abandoned ~~the~~ a minor child and is not 588
entitled to recover damages in ~~the~~ a civil action for wrongful 589
death ~~action~~ based on the death of the ~~deceased~~ minor ~~child~~ may be 590
filed at any time during the pendency of the ~~wrongful-death~~ 591
action. 592

(F) This section does not create a new cause of action or 593
substantive legal right against any person involving a product 594
liability claim. 595

(G) As used in this section: 596

(1) "Annuity" means an annuity that would be purchased from 597
either of the following types of insurance companies: 598

(a) An insurance company that the A. M. Best Company, in its 599
most recently published rating guide of life insurance companies, 600
has rated A or better and has rated XII or higher as to financial 601
size or strength; 602

(b)(i) An insurance company that the superintendent of insurance, under rules adopted pursuant to Chapter 119. of the Revised Code for purposes of implementing this division, determines is licensed to do business in this state and, considering the factors described in division ~~(F)~~(G)(1)(b)(ii) of this section, is a stable insurance company that issues annuities that are safe and desirable.

(ii) In making determinations as described in division ~~(F)~~(G)(1)(b)(i) of this section, the superintendent shall be guided by the principle that the jury or court in ~~an~~ a civil action for wrongful death should be presented only with evidence as to the cost of annuities that are safe and desirable for the beneficiaries of ~~such an~~ the action who are awarded compensatory damages under this section. In making ~~such~~ the determinations, the superintendent shall consider the financial condition, general standing, operating results, profitability, leverage, liquidity, amount and soundness of reinsurance, adequacy of reserves, and the management of ~~any a particular~~ insurance company ~~in question~~ involved and also may consider ratings, grades, and classifications of any nationally recognized rating services of insurance companies and any other factors relevant to the making of ~~such~~ the determinations.

(2) "Future damages" means damages that result from the wrongful death and that will accrue after the verdict or determination of liability by the jury or court is rendered in the civil action for wrongful death.

(3) "Abandoned" means that a parent of a minor failed without justifiable cause to communicate with the minor, care for the minor, and provide for the maintenance or support of the minor as required by law or judicial decree for a period of at least one year immediately prior to the date of the death of the minor.

(4) "Minor" means a person who is less than eighteen years of age. 634
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(5) "Harm" means death. 636

(6) "Manufacturer," "product," "product liability claim," and "supplier" have the same meanings as in section 2307.71 of the Revised Code. 637
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(H) Divisions (D), (G)(5), and (G)(6) of this section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action commenced on or after the effective date of this amendment, in which those divisions are relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to the effective date of this amendment. 640
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Sec. 2125.04. In every civil action for wrongful death 649
commenced or attempted to be commenced within the time specified 650
by division (D)(1) or (D)(2)(c), (d), (e), (f), or (g) of section 651
2125.02 of the Revised Code, if a judgment for the plaintiff is 652
reversed or ~~if~~ the plaintiff fails otherwise than upon the merits, 653
and if the time limited by ~~such section~~ any of those divisions for 654
the commencement of ~~such the~~ the action has expired at the date of 655
~~such the~~ reversal or failure, the plaintiff or, if the plaintiff 656
dies and the cause of action survives, the personal representative 657
of the plaintiff may commence a new civil action for wrongful 658
death within one year after ~~such that~~ that date. 659

Sec. 2305.01. The Except as otherwise provided by this 660
section or section 2305.03 of the Revised Code, the court of 661
common pleas has original jurisdiction in all civil cases in which 662
the sum or matter in dispute exceeds the exclusive original 663

jurisdiction of county courts and appellate jurisdiction from the 664
decisions of boards of county commissioners. The court of common 665
pleas shall not have jurisdiction, in any tort action to which the 666
amounts apply, to award punitive or exemplary damages that exceed 667
the amounts set forth in section 2315.21 of the Revised Code. The 668
court of common pleas shall not have jurisdiction in any tort 669
action to which the limits apply to enter judgment on an award of 670
compensatory damages for noneconomic loss in excess of the limits 671
set forth in section 2315.18 of the Revised Code. 672

The court of common pleas may on its own motion transfer for 673
trial any action in the court to any municipal court in the county 674
having concurrent jurisdiction of the subject matter of, and the 675
parties to, the action, if the amount sought by the plaintiff does 676
not exceed one thousand dollars and if the judge or presiding 677
judge of the municipal court concurs in the proposed transfer. 678
Upon the issuance of an order of transfer, the clerk of courts 679
shall remove to the designated municipal court the entire case 680
file. Any untaxed portion of the common pleas deposit for court 681
costs shall be remitted to the municipal court by the clerk of 682
courts to be applied in accordance with section 1901.26 of the 683
Revised Code, and the costs taxed by the municipal court shall be 684
added to any costs taxed in the common pleas court. 685

The court of common pleas has jurisdiction in any action 686
brought pursuant to division (I) of section 3733.11 of the Revised 687
Code if the residential premises that are the subject of the 688
action are located within the territorial jurisdiction of the 689
court. 690

The courts of common pleas of Adams, Athens, Belmont, Brown, 691
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 692
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 693
beyond the north or northwest shore of the Ohio river extending to 694

the opposite shore line, between the extended boundary lines of
any adjacent counties or adjacent state. Each of those courts of
common pleas has concurrent jurisdiction on the Ohio river with
any adjacent court of common pleas that borders on that river and
with any court of Kentucky or of West Virginia that borders on the
Ohio river and that has jurisdiction on the Ohio river under the
law of Kentucky or the law of West Virginia, whichever is
applicable, or under federal law.

Sec. 2305.03. ~~A civil action,~~ (A) Except as provided in
division (B) of this section and unless a different limitation is
prescribed by statute, ~~can a civil action may~~ be commenced only
within the period prescribed in sections ~~2305.03~~ 2305.04 to
2305.22, ~~inclusive,~~ of the Revised Code. ~~When~~ If interposed by
proper plea by a party to an action mentioned in ~~such~~ any of those
sections, lapse of time shall be a bar ~~thereto~~ to the action.

(B) No civil action that is based upon a cause of action that
accrued in any other state, territory, district, or foreign
jurisdiction may be commenced and maintained in this state if the
period of limitation that applies to that action under the laws of
that other state, territory, district, or foreign jurisdiction has
expired or the period of limitation that applies to that action
under the laws of this state has expired.

Sec. 2305.10. ~~An~~ (A) Except as provided in division (C) of
this section, an action based on a product liability claim and an
action for bodily injury or injuring personal property shall be
brought within two years after the cause ~~thereof arose~~ of action
accrues. Except as provided in divisions (B)(1), (2), (3), (4),
and (5) of this section, a cause of action accrues under this
division when the injury or loss to person or property occurs.

(B)(1) For purposes of division (A) of this section, a cause

of action for bodily injury that is not described in division 725
(B)(2), (3), (4), or (5) of this section and that is caused by 726
exposure to hazardous or toxic chemicals, ethical drugs, or 727
ethical medical devices accrues upon the date on which the 728
plaintiff is informed by competent medical authority that the 729
plaintiff has an injury that is related to the exposure, or upon 730
the date on which by the exercise of reasonable diligence the 731
plaintiff should have known that the plaintiff has an injury that 732
is related to the exposure, whichever date occurs first. 733

(2) For purposes of division (A) of this section, a cause of 734
action for bodily injury caused by exposure to ~~asbestos or to~~ 735
chromium in any of its chemical forms ~~arises~~ accrues upon the date 736
on which the plaintiff is informed by competent medical authority 737
that the plaintiff has ~~been injured by such~~ an injury that is 738
~~related to the~~ exposure, or upon the date on which, by the 739
~~exercise of reasonable diligence,~~ the plaintiff should have ~~become~~ 740
~~aware~~ known that the plaintiff ~~had been injured by~~ has an injury 741
~~that is related to~~ the exposure, whichever date occurs first. 742

(3) For purposes of division (A) of this section, a cause of 743
action for bodily injury incurred by a veteran through exposure to 744
chemical defoliants or herbicides or other causative agents, 745
including agent orange, ~~arises~~ accrues upon the date on which the 746
plaintiff is informed by competent medical authority that the 747
plaintiff has ~~been injured by such~~ an injury that is related to 748
~~the~~ exposure, or upon the date on which by the exercise of 749
~~reasonable diligence~~ the plaintiff should have known that the 750
~~plaintiff has an injury that is related to the exposure, whichever~~ 751
~~date occurs first.~~ 752

As used in this section, ~~"agent orange," "causative agent,"~~ 753
and ~~"veteran"~~ have the same meanings as in section 5903.21 of the 754
Revised Code. 755

(4) For purposes of division (A) of this section, a cause of action for bodily injury ~~which may be~~ caused by exposure to diethylstilbestrol or other nonsteroidal synthetic estrogens, including exposure before birth, accrues upon the date on which the plaintiff learns from a licensed physician is informed by competent medical authority that the plaintiff has an injury ~~which may be that is~~ related to ~~such the~~ exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have ~~become aware~~ known that the plaintiff has an injury ~~which may be that is~~ related to ~~such the~~ exposure, whichever date occurs first.

(5) For purposes of division (A) of this section, a cause of action for bodily injury caused by exposure to asbestos accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(C)(1) Except as otherwise provided in divisions (C)(2), (3), (4), (5), (6), and (7) of this section or in section 2305.19 of the Revised Code, no cause of action based on a product liability claim shall accrue against the manufacturer or supplier of a product later than ten years from the date that the product was delivered to its first purchaser or first lessee who was not engaged in a business in which the product was used as a component in the production, construction, creation, assembly, or rebuilding of another product.

(2) Division (C)(1) of this section does not apply if the manufacturer or supplier of a product engaged in fraud in regard to information about the product and the fraud contributed to the harm that is alleged in a product liability claim involving that

product. 788

(3) Division (C)(1) of this section does not bar an action 789
based on a product liability claim against a manufacturer or 790
supplier of a product who made an express, written warranty as to 791
the safety of the product that was for a period longer than ten 792
years and that, at the time of the accrual of the cause of action, 793
has not expired in accordance with the terms of that warranty. 794

(4) If the cause of action relative to a product liability 795
claim accrues during the ten-year period described in division 796
(C)(1) of this section but less than two years prior to the 797
expiration of that period, an action based on the product 798
liability claim may be commenced within two years after the cause 799
of action accrues. 800

(5) If a cause of action relative to a product liability 801
claim accrues during the ten-year period described in division 802
(C)(1) of this section and the claimant cannot commence an action 803
during that period due to a disability described in section 804
2305.16 of the Revised Code, an action based on the product 805
liability claim may be commenced within two years after the 806
disability is removed. 807

(6) Division (C)(1) of this section does not bar an action 808
for bodily injury caused by exposure to asbestos if the cause of 809
action that is the basis of the action accrues upon the date on 810
which the plaintiff is informed by competent medical authority 811
that the plaintiff has an injury that is related to the exposure, 812
or upon the date on which by the exercise of reasonable diligence 813
the plaintiff should have known that the plaintiff has an injury 814
that is related to the exposure, whichever date occurs first. 815

(7)(a) Division (C)(1) of this section does not bar an action 816
based on a product liability claim against a manufacturer or 817
supplier of a product if all of the following apply: 818

<u>(i) The action is for bodily injury.</u>	819
<u>(ii) The product involved is a substance or device described in division (B)(1), (2), (3), or (4) of this section.</u>	820 821
<u>(iii) The bodily injury results from exposure to the product during the ten-year period described in division (C)(1) of this section.</u>	822 823 824
<u>(b) If division (C)(7)(a) of this section applies regarding an action, the cause of action accrues upon the date on which the claimant is informed by competent medical authority that the bodily injury was related to the exposure to the product, or upon the date on which by the exercise of reasonable diligence the claimant should have known that the bodily injury was related to the exposure to the product, whichever date occurs first. The action based on the product liability claim shall be commenced within two years after the cause of action accrues and shall not be commenced more than two years after the cause of action accrues.</u>	825 826 827 828 829 830 831 832 833 834 835
<u>(D) This section does not create a new cause of action or substantive legal right against any person involving a product liability claim.</u>	836 837 838
<u>(E) As used in this section:</u>	839
<u>(1) "Agent orange," "causative agent," and "veteran" have the same meanings as in section 5903.21 of the Revised Code.</u>	840 841
<u>(2) "Ethical drug," "ethical medical device," "manufacturer," "product," "product liability claim," and "supplier" have the same meanings as in section 2307.71 of the Revised Code.</u>	842 843 844
<u>(3) "Harm" means injury, death, or loss to person or property.</u>	845 846
<u>(F) This section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil</u>	847 848

action commenced on or after the effective date of this amendment, 849
in which this section is relevant, regardless of when the cause of 850
action accrued and notwithstanding any other section of the 851
Revised Code or prior rule of law of this state, but shall not be 852
construed to apply to any civil action pending prior to the 853
effective date of this amendment. 854

Sec. 2305.113. (A) Except as otherwise provided in this 855
section, an action upon a medical, dental, optometric, or 856
chiropractic claim shall be commenced within one year after the 857
cause of action accrued. 858

(B)(1) If prior to the expiration of the one-year period 859
specified in division (A) of this section, a claimant who 860
allegedly possesses a medical, dental, optometric, or chiropractic 861
claim gives to the person who is the subject of that claim written 862
notice that the claimant is considering bringing an action upon 863
that claim, that action may be commenced against the person 864
notified at any time within one hundred eighty days after the 865
notice is so given. 866

(2) An insurance company shall not consider the existence or 867
nonexistence of a written notice described in division (B)(1) of 868
this section in setting the liability insurance premium rates that 869
the company may charge the company's insured person who is 870
notified by that written notice. 871

(C) Except as to persons within the age of minority or of 872
unsound mind as provided by section 2305.16 of the Revised Code, 873
and except as provided in division (D) of this section, both of 874
the following apply: 875

(1) No action upon a medical, dental, optometric, or 876
chiropractic claim shall be commenced more than four years after 877
the occurrence of the act or omission constituting the alleged 878

basis of the medical, dental, optometric, or chiropractic claim. 879

(2) If an action upon a medical, dental, optometric, or 880
chiropractic claim is not commenced within four years after the 881
occurrence of the act or omission constituting the alleged basis 882
of the medical, dental, optometric, or chiropractic claim, then, 883
any action upon that claim is barred. 884

(D)(1) If a person making a medical claim, dental claim, 885
optometric claim, or chiropractic claim, in the exercise of 886
reasonable care and diligence, could not have discovered the 887
injury resulting from the act or omission constituting the alleged 888
basis of the claim within three years after the occurrence of the 889
act or omission, but, in the exercise of reasonable care and 890
diligence, discovers the injury resulting from that act or 891
omission before the expiration of the four-year period specified 892
in division (C)(1) of this section, the person may commence an 893
action upon the claim not later than one year after the person 894
discovers the injury resulting from that act or omission. 895

(2) If the alleged basis of a medical claim, dental claim, 896
optometric claim, or chiropractic claim is the occurrence of an 897
act or omission that involves a foreign object that is left in the 898
body of the person making the claim, the person may commence an 899
action upon the claim not later than one year after the person 900
discovered the foreign object or not later than one year after the 901
person, with reasonable care and diligence, should have discovered 902
the foreign object. 903

(3) A person who commences an action upon a medical claim, 904
dental claim, optometric claim, or chiropractic claim under the 905
circumstances described in division (D)(1) or (2) of this section 906
has the affirmative burden of proving, by clear and convincing 907
evidence, that the person, with reasonable care and diligence, 908
could not have discovered the injury resulting from the act or 909

omission constituting the alleged basis of the claim within the 910
three-year period described in division (D)(1) of this section or 911
within the one-year period described in division (D)(2) of this 912
section, whichever is applicable. 913

(E) As used in this section: 914

(1) "Hospital" includes any person, corporation, association, 915
board, or authority that is responsible for the operation of any 916
hospital licensed or registered in the state, including, but not 917
limited to, those that are owned or operated by the state, 918
political subdivisions, any person, any corporation, or any 919
combination of the state, political subdivisions, persons, and 920
corporations. "Hospital" also includes any person, corporation, 921
association, board, entity, or authority that is responsible for 922
the operation of any clinic that employs a full-time staff of 923
physicians practicing in more than one recognized medical 924
specialty and rendering advice, diagnosis, care, and treatment to 925
individuals. "Hospital" does not include any hospital operated by 926
the government of the United States or any of its branches. 927

(2) "Physician" means a person who is licensed to practice 928
medicine and surgery or osteopathic medicine and surgery by the 929
state medical board or a person who otherwise is authorized to 930
practice medicine and surgery or osteopathic medicine and surgery 931
in this state. 932

(3) "Medical claim" means any claim that is asserted in any 933
civil action against a physician, podiatrist, hospital, home, or 934
residential facility, against any employee or agent of a 935
physician, podiatrist, hospital, home, or residential facility, or 936
against a licensed practical nurse, registered nurse, advanced 937
practice nurse, physical therapist, physician assistant, emergency 938
medical technician-basic, emergency medical 939
technician-intermediate, or emergency medical 940

technician-paramedic, and that arises out of the medical	941
diagnosis, care, or treatment of any person. "Medical claim"	942
includes the following:	943
(a) Derivative claims for relief that arise from the medical	944
diagnosis, care, or treatment of a person;	945
(b) Claims that arise out of the medical diagnosis, care, or	946
treatment of any person and to which either of the following	947
applies:	948
(i) The claim results from acts or omissions in providing	949
medical care.	950
(ii) The claim results from the hiring, training,	951
supervision, retention, or termination of caregivers providing	952
medical diagnosis, care, or treatment.	953
(c) Claims that arise out of the medical diagnosis, care, or	954
treatment of any person and that are brought under section 3721.17	955
of the Revised Code.	956
(4) "Podiatrist" means any person who is licensed to practice	957
podiatric medicine and surgery by the state medical board.	958
(5) "Dentist" means any person who is licensed to practice	959
dentistry by the state dental board.	960
(6) "Dental claim" means any claim that is asserted in any	961
civil action against a dentist, or against any employee or agent	962
of a dentist, and that arises out of a dental operation or the	963
dental diagnosis, care, or treatment of any person. "Dental claim"	964
includes derivative claims for relief that arise from a dental	965
operation or the dental diagnosis, care, or treatment of a person.	966
(7) "Derivative claims for relief" include, but are not	967
limited to, claims of a parent, guardian, custodian, or spouse of	968
an individual who was the subject of any medical diagnosis, care,	969
or treatment, dental diagnosis, care, or treatment, dental	970

operation, optometric diagnosis, care, or treatment, or 971
chiropractic diagnosis, care, or treatment, that arise from that 972
diagnosis, care, treatment, or operation, and that seek the 973
recovery of damages for any of the following: 974

(a) Loss of society, consortium, companionship, care, 975
assistance, attention, protection, advice, guidance, counsel, 976
instruction, training, or education, or any other intangible loss 977
that was sustained by the parent, guardian, custodian, or spouse; 978

(b) Expenditures of the parent, guardian, custodian, or 979
spouse for medical, dental, optometric, or chiropractic care or 980
treatment, for rehabilitation services, or for other care, 981
treatment, services, products, or accommodations provided to the 982
individual who was the subject of the medical diagnosis, care, or 983
treatment, the dental diagnosis, care, or treatment, the dental 984
operation, the optometric diagnosis, care, or treatment, or the 985
chiropractic diagnosis, care, or treatment. 986

(8) "Registered nurse" means any person who is licensed to 987
practice nursing as a registered nurse by the ~~state~~ board of 988
nursing. 989

(9) "Chiropractic claim" means any claim that is asserted in 990
any civil action against a chiropractor, or against any employee 991
or agent of a chiropractor, and that arises out of the 992
chiropractic diagnosis, care, or treatment of any person. 993

"Chiropractic claim" includes derivative claims for relief that 994
arise from the chiropractic diagnosis, care, or treatment of a 995
person. 996

(10) "Chiropractor" means any person who is licensed to 997
practice chiropractic by the state chiropractic ~~examining~~ board. 998

(11) "Optometric claim" means any claim that is asserted in 999
any civil action against an optometrist, or against any employee 1000
or agent of an optometrist, and that arises out of the optometric 1001

diagnosis, care, or treatment of any person. "Optometric claim" 1002
includes derivative claims for relief that arise from the 1003
optometric diagnosis, care, or treatment of a person. 1004

(12) "Optometrist" means any person licensed to practice 1005
optometry by the state board of optometry. 1006

(13) "Physical therapist" means any person who is licensed to 1007
practice physical therapy under Chapter 4755. of the Revised Code. 1008

(14) "Home" has the same meaning as in section 3721.10 of the 1009
Revised Code. 1010

(15) "Residential facility" means a facility licensed under 1011
section 5123.19 of the Revised Code. 1012

(16) "Advanced practice nurse" means any certified nurse 1013
practitioner, clinical nurse specialist, ~~or~~ certified registered 1014
nurse anesthetist, or a certified nurse-midwife ~~certified~~ who 1015
holds a certificate of authority issued by the board of nursing 1016
under ~~section 4723.41~~ Chapter 4723. of the Revised Code. 1017

(17) "Licensed practical nurse" means any person who is 1018
licensed to practice nursing as a licensed practical nurse by the 1019
~~state~~ board of nursing pursuant to Chapter 4723. of the Revised 1020
Code. 1021

(18) "Physician assistant" means any person who holds a valid 1022
certificate of registration or temporary certificate of 1023
registration issued pursuant to Chapter 4730. of the Revised Code. 1024

(19) "Emergency medical technician-basic," "emergency medical 1025
technician-intermediate," and "emergency medical 1026
technician-paramedic" means any person who is certified under 1027
Chapter 4765. of the Revised Code as an emergency medical 1028
technician-basic, emergency medical technician-intermediate, or 1029
emergency medical technician-paramedic, whichever is applicable. 1030

Sec. 2305.131. (A)(1) Notwithstanding an otherwise applicable 1031
period of limitations specified in this chapter or in section 1032
2125.02 of the Revised Code and except as otherwise provided in 1033
divisions (A)(2), (A)(3), (C), and (D) of this section, no cause 1034
of action to recover damages for bodily injury, an injury to real 1035
or personal property, or wrongful death that arises out of a 1036
defective and unsafe condition of an improvement to real property 1037
and no cause of action for contribution or indemnity for damages 1038
sustained as a result of bodily injury, an injury to real or 1039
personal property, or wrongful death that arises out of a 1040
defective and unsafe condition of an improvement to real property 1041
shall accrue against a person who performed services for the 1042
improvement to real property or a person who furnished the design, 1043
planning, supervision of construction, or construction of the 1044
improvement to real property later than ten years from the date of 1045
substantial completion of such improvement. 1046

(2) Notwithstanding an otherwise applicable period of 1047
limitations specified in this chapter or in section 2125.02 of the 1048
Revised Code, a claimant who discovers a defective and unsafe 1049
condition of an improvement to real property during the ten-year 1050
period specified in division (A)(1) of this section but less than 1051
two years prior to the expiration of that period may commence a 1052
civil action to recover damages as described in that division 1053
within two years from the date of the discovery of that defective 1054
and unsafe condition. 1055

(3) Notwithstanding an otherwise applicable period of 1056
limitations specified in this chapter or in section 2125.02 of the 1057
Revised Code, if a cause of action that arises out of a defective 1058
and unsafe condition of an improvement to real property accrues 1059
during the ten-year period specified in division (A)(1) of this 1060
section and the plaintiff cannot commence an action during that 1061

period due to a disability described in section 2305.16 of the 1062
Revised Code, the plaintiff may commence a civil action to recover 1063
damages as described in that division within two years from the 1064
removal of that disability. 1065

(B) Division (A) of this section does not apply to a civil 1066
action commenced against a person who is an owner of, tenant of, 1067
landlord of, or other person in possession and control of an 1068
improvement to real property and who is in actual possession and 1069
control of the improvement to real property at the time that the 1070
defective and unsafe condition of the improvement to real property 1071
constitutes the proximate cause of the bodily injury, injury to 1072
real or personal property, or wrongful death that is the subject 1073
matter of the civil action. 1074

(C) Division (A)(1) of this section is not available as an 1075
affirmative defense to a defendant in a civil action described in 1076
that division if the defendant engages in fraud in regard to 1077
furnishing the design, planning, supervision of construction, or 1078
construction of an improvement to real property or in regard to 1079
any relevant fact or other information that pertains to the act or 1080
omission constituting the alleged basis of the bodily injury, 1081
injury to real or personal property, or wrongful death or to the 1082
defective and unsafe condition of the improvement to real 1083
property. 1084

(D) Division (A)(1) of this section does not prohibit the 1085
commencement of a civil action for damages against a person who 1086
has expressly warranted or guaranteed an improvement to real 1087
property for a period longer than the period described in division 1088
(A)(1) of this section and whose warranty or guarantee has not 1089
expired as of the time of the alleged bodily injury, injury to 1090
real or personal property, or wrongful death in accordance with 1091
the terms of that warranty or guarantee. 1092

(E) This section does not create a new cause of action or substantive legal right against any person resulting from the design, planning, supervision of construction, or construction of an improvement to real property. 1093
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(F) This section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action commenced on or after the effective date of this section, in which this section is relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to the effective date of this section. 1097
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(G) As used in this section, "substantial completion" means the date the improvement to real property is first used by the owner or tenant of the real property or when the real property is first available for use after having the improvement completed in accordance with the contract or agreement covering the improvement, including any agreed changes to the contract or agreement, whichever occurs first. 1105
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Sec. 2305.234. (A) As used in this section: 1112

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code. 1113
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(2) "Dental claim" has the same meaning as in section 2305.113 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. 1116
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(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code. 1120
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(4) "Health care facility or location" means a hospital, 1122

clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;	1153 1154
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	1155 1156
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	1157 1158 1159 1160
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	1161 1162
(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.	1163 1164
(6) "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 activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.	1165 1166 1167 1168 1169 1170 1171
(7) "Indigent and uninsured person" means a person who meets all of the following requirements:	1172 1173
(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.	1174 1175 1176 1177 1178
(b) The person is not eligible to receive medical assistance under Chapter 5111., disability medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.	1179 1180 1181 1182

- (c) Either of the following applies: 1183
- (i) The person is not a policyholder, certificate holder, 1184
insured, contract holder, subscriber, enrollee, member, 1185
beneficiary, or other covered individual under a health insurance 1186
or health care policy, contract, or plan. 1187
- (ii) The person is a policyholder, certificate holder, 1188
insured, contract holder, subscriber, enrollee, member, 1189
beneficiary, or other covered individual under a health insurance 1190
or health care policy, contract, or plan, but the insurer, policy, 1191
contract, or plan denies coverage or is the subject of insolvency 1192
or bankruptcy proceedings in any jurisdiction. 1193
- (8) "Nonprofit health care referral organization" means an 1194
entity that is not operated for profit and refers patients to, or 1195
arranges for the provision of, health-related diagnosis, care, or 1196
treatment by a health care professional or health care worker. 1197
- (9) "Operation" means any procedure that involves cutting or 1198
otherwise infiltrating human tissue by mechanical means, including 1199
surgery, laser surgery, ionizing radiation, therapeutic 1200
ultrasound, or the removal of intraocular foreign bodies. 1201
"Operation" does not include the administration of medication by 1202
injection, unless the injection is administered in conjunction 1203
with a procedure infiltrating human tissue by mechanical means 1204
other than the administration of medicine by injection. 1205
"Operation" does not include routine dental restorative 1206
procedures, the scaling of teeth, or extractions of teeth that are 1207
not impacted. 1208
- (10) "Tort action" means a civil action for damages for 1209
injury, death, or loss to person or property other than a civil 1210
action for damages for a breach of contract or another agreement 1211
between persons or government entities. 1212
- (11) "Volunteer" means an individual who provides any 1213

medical, dental, or other health-care related diagnosis, care, or 1214
treatment without the expectation of receiving and without receipt 1215
of any compensation or other form of remuneration from an indigent 1216
and uninsured person, another person on behalf of an indigent and 1217
uninsured person, any health care facility or location, any 1218
nonprofit health care referral organization, or any other person 1219
or government entity. 1220

(12) "Community control sanction" has the same meaning as in 1221
section 2929.01 of the Revised Code. 1222

(13) "Deep sedation" means a drug-induced depression of 1223
consciousness during which a patient cannot be easily aroused but 1224
responds purposefully following repeated or painful stimulation, a 1225
patient's ability to independently maintain ventilatory function 1226
may be impaired, a patient may require assistance in maintaining a 1227
patent airway and spontaneous ventilation may be inadequate, and 1228
cardiovascular function is usually maintained. 1229

(14) "General anesthesia" means a drug-induced loss of 1230
consciousness during which a patient is not arousable, even by 1231
painful stimulation, the ability to independently maintain 1232
ventilatory function is often impaired, a patient often requires 1233
assistance in maintaining a patent airway, positive pressure 1234
ventilation may be required because of depressed spontaneous 1235
ventilation or drug-induced depression of neuromuscular function, 1236
and cardiovascular function may be impaired. 1237

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 1238
health care professional who is a volunteer and complies with 1239
division (B)(2) of this section is not liable in damages to any 1240
person or government entity in a tort or other civil action, 1241
including an action on a medical, dental, chiropractic, 1242
optometric, or other health-related claim, for injury, death, or 1243
loss to person or property that allegedly arises from an action or 1244

omission of the volunteer in the provision to an indigent and 1245
uninsured person of medical, dental, or other health-related 1246
diagnosis, care, or treatment, including the provision of samples 1247
of medicine and other medical products, unless the action or 1248
omission constitutes willful or wanton misconduct. 1249

(2) To qualify for the immunity described in division (B)(1) 1250
of this section, a health care professional shall do all of the 1251
following prior to providing diagnosis, care, or treatment: 1252

(a) Determine, in good faith, that the indigent and uninsured 1253
person is mentally capable of giving informed consent to the 1254
provision of the diagnosis, care, or treatment and is not subject 1255
to duress or under undue influence; 1256

(b) Inform the person of the provisions of this section, 1257
including notifying the person that, by giving informed consent to 1258
the provision of the diagnosis, care, or treatment, the person 1259
cannot hold the health care professional liable for damages in a 1260
tort or other civil action, including an action on a medical, 1261
dental, chiropractic, optometric, or other health-related claim, 1262
unless the action or omission of the health care professional 1263
constitutes willful or wanton misconduct; 1264

(c) Obtain the informed consent of the person and a written 1265
waiver, signed by the person or by another individual on behalf of 1266
and in the presence of the person, that states that the person is 1267
mentally competent to give informed consent and, without being 1268
subject to duress or under undue influence, gives informed consent 1269
to the provision of the diagnosis, care, or treatment subject to 1270
the provisions of this section. A written waiver under division 1271
(B)(2)(c) of this section shall state clearly and in conspicuous 1272
type that the person or other individual who signs the waiver is 1273
signing it with full knowledge that, by giving informed consent to 1274
the provision of the diagnosis, care, or treatment, the person 1275

cannot bring a tort or other civil action, including an action on 1276
a medical, dental, chiropractic, optometric, or other 1277
health-related claim, against the health care professional unless 1278
the action or omission of the health care professional constitutes 1279
willful or wanton misconduct. 1280

(3) A physician or podiatrist who is not covered by medical 1281
malpractice insurance, but complies with division (B)(2) of this 1282
section, is not required to comply with division (A) of section 1283
4731.143 of the Revised Code. 1284

(C) Subject to divisions (F) and (G)(3) of this section, 1285
health care workers who are volunteers are not liable in damages 1286
to any person or government entity in a tort or other civil 1287
action, including an action upon a medical, dental, chiropractic, 1288
optometric, or other health-related claim, for injury, death, or 1289
loss to person or property that allegedly arises from an action or 1290
omission of the health care worker in the provision to an indigent 1291
and uninsured person of medical, dental, or other health-related 1292
diagnosis, care, or treatment, unless the action or omission 1293
constitutes willful or wanton misconduct. 1294

(D) Subject to divisions (F) and (G)(3) of this section, a 1295
nonprofit health care referral organization is not liable in 1296
damages to any person or government entity in a tort or other 1297
civil action, including an action on a medical, dental, 1298
chiropractic, optometric, or other health-related claim, for 1299
injury, death, or loss to person or property that allegedly arises 1300
from an action or omission of the nonprofit health care referral 1301
organization in referring indigent and uninsured persons to, or 1302
arranging for the provision of, medical, dental, or other 1303
health-related diagnosis, care, or treatment by a health care 1304
professional described in division (B)(1) of this section or a 1305
health care worker described in division (C) of this section, 1306
unless the action or omission constitutes willful or wanton 1307

misconduct. 1308

(E) Subject to divisions (F) and (G)(3) of this section and 1309
to the extent that the registration requirements of section 1310
3701.071 of the Revised Code apply, a health care facility or 1311
location associated with a health care professional described in 1312
division (B)(1) of this section, a health care worker described in 1313
division (C) of this section, or a nonprofit health care referral 1314
organization described in division (D) of this section is not 1315
liable in damages to any person or government entity in a tort or 1316
other civil action, including an action on a medical, dental, 1317
chiropractic, optometric, or other health-related claim, for 1318
injury, death, or loss to person or property that allegedly arises 1319
from an action or omission of the health care professional or 1320
worker or nonprofit health care referral organization relative to 1321
the medical, dental, or other health-related diagnosis, care, or 1322
treatment provided to an indigent and uninsured person on behalf 1323
of or at the health care facility or location, unless the action 1324
or omission constitutes willful or wanton misconduct. 1325

(F)(1) Except as provided in division (F)(2) of this section, 1326
the immunities provided by divisions (B), (C), (D), and (E) of 1327
this section are not available to a health care professional, 1328
health care worker, nonprofit health care referral organization, 1329
or health care facility or location if, at the time of an alleged 1330
injury, death, or loss to person or property, the health care 1331
professionals or health care workers involved are providing one of 1332
the following: 1333

(a) Any medical, dental, or other health-related diagnosis, 1334
care, or treatment pursuant to a community service work order 1335
entered by a court under division (B) of section 2951.02 of the 1336
Revised Code or imposed by a court as a community control 1337
sanction; 1338

(b) Performance of an operation+ <u>to which any one of the</u>	1339
<u>following applies:</u>	1340
<u>(i) The operation requires the administration of deep</u>	1341
<u>sedation or general anesthesia.</u>	1342
<u>(ii) The operation is a procedure that is not typically</u>	1343
<u>performed in an office.</u>	1344
<u>(iii) The individual involved is a health care professional,</u>	1345
<u>and the operation is beyond the scope of practice or the</u>	1346
<u>education, training, and competence, as applicable, of the health</u>	1347
<u>care professional.</u>	1348
(c) Delivery of a baby <u>or any other purposeful termination of</u>	1349
<u>a human pregnancy.</u>	1350
(2) Division (F)(1) of this section does not apply when a	1351
health care professional or health care worker provides medical,	1352
dental, or other health-related diagnosis, care, or treatment that	1353
is necessary to preserve the life of a person in a medical	1354
emergency.	1355
(G)(1) This section does not create a new cause of action or	1356
substantive legal right against a health care professional, health	1357
care worker, nonprofit health care referral organization, or	1358
health care facility or location.	1359
(2) This section does not affect any immunities from civil	1360
liability or defenses established by another section of the	1361
Revised Code or available at common law to which a health care	1362
professional, health care worker, nonprofit health care referral	1363
organization, or health care facility or location may be entitled	1364
in connection with the provision of emergency or other medical,	1365
dental, or other health-related diagnosis, care, or treatment.	1366
(3) This section does not grant an immunity from tort or	1367
other civil liability to a health care professional, health care	1368

worker, nonprofit health care referral organization, or health 1369
care facility or location for actions that are outside the scope 1370
of authority of health care professionals or health care workers. 1371

(4) This section does not affect any legal responsibility of 1372
a health care professional, health care worker, or nonprofit 1373
health care referral organization to comply with any applicable 1374
law of this state or rule of an agency of this state. 1375

(5) This section does not affect any legal responsibility of 1376
a health care facility or location to comply with any applicable 1377
law of this state, rule of an agency of this state, or local code, 1378
ordinance, or regulation that pertains to or regulates building, 1379
housing, air pollution, water pollution, sanitation, health, fire, 1380
zoning, or safety. 1381

Sec. 2305.25. As used in this section and sections 2305.251 1382
to 2305.253 of the Revised Code: 1383

(A)(1) "Health care entity" means an entity, whether acting 1384
on its own behalf or on behalf of or in affiliation with other 1385
health care entities, that conducts as part of its regular 1386
business activities professional credentialing or quality review 1387
activities involving the competence of, professional conduct of, 1388
or quality of care provided by health care providers, including 1389
both individuals who provide health care and entities that provide 1390
health care. 1391

(2) "Health care entity" includes any entity described in 1392
division (A)(1) of this section, regardless of whether it is a 1393
government entity; for-profit or nonprofit corporation; limited 1394
liability company; partnership; professional corporation; state or 1395
local society composed of physicians, dentists, optometrists, 1396
psychologists, or pharmacists; or other health care organization. 1397

(B) "Health insuring corporation" means an entity that holds 1398

a certificate of authority under Chapter 1751. of the Revised Code. "Health insuring corporation" includes wholly owned subsidiaries of a health insuring corporation. 1399
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(C) "Hospital" means either of the following: 1402

(1) An institution that has been registered or licensed by the department of health as a hospital; 1403
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(2) An entity, other than an insurance company authorized to do business in this state, that owns, controls, or is affiliated with an institution that has been registered or licensed by the department of health as a hospital. 1405
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(D) "Incident report or risk management report" means a report of an incident involving injury or potential injury to a patient as a result of patient care provided by health care providers, including both individuals who provide health care and entities that provide health care, that is prepared by or for the use of a peer review committee of a health care entity and is within the scope of the functions of that committee. 1409
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(E)(1) "Peer review committee" means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee that does either of the following: 1416
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(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by health care providers, including both individuals who provide health care and entities that provide health care; 1420
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(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions. 1425
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(2) "Peer review committee" includes all of the following: 1427

(a) A peer review committee of a hospital or long-term care 1428

facility or a peer review committee of a nonprofit health care 1429
corporation that is a member of the hospital or long-term care 1430
facility or of which the hospital or facility is a member; 1431

(b) A peer review committee of a community mental health 1432
center; 1433

(c) A board or committee of a hospital, a long-term care 1434
facility, or other health care entity when reviewing professional 1435
qualifications or activities of health care providers, including 1436
both individuals who provide health care and entities that provide 1437
health care; 1438

(d) A peer review committee, professional standards review 1439
committee, or arbitration committee of a state or local society 1440
composed of members who are in active practice as physicians, 1441
dentists, optometrists, psychologists, or pharmacists; 1442

(e) A peer review committee of a health insuring corporation 1443
that has at least a two-thirds majority of member physicians in 1444
active practice and that conducts professional credentialing and 1445
quality review activities involving the competence or professional 1446
conduct of health care providers that adversely affects or could 1447
adversely affect the health or welfare of any patient; 1448

(f) A peer review committee of a health insuring corporation 1449
that has at least a two-thirds majority of member physicians in 1450
active practice and that conducts professional credentialing and 1451
quality review activities involving the competence or professional 1452
conduct of a health care facility that has contracted with the 1453
health insuring corporation to provide health care services to 1454
enrollees, which conduct adversely affects, or could adversely 1455
affect, the health or welfare of any patient; 1456

(g) A peer review committee of a sickness and accident 1457
insurer that has at least a two-thirds majority of physicians in 1458
active practice and that conducts professional credentialing and 1459

quality review activities involving the competence or professional 1460
conduct of health care providers that adversely affects or could 1461
adversely affect the health or welfare of any patient; 1462

(h) A peer review committee of a sickness and accident 1463
insurer that has at least a two-thirds majority of physicians in 1464
active practice and that conducts professional credentialing and 1465
quality review activities involving the competence or professional 1466
conduct of a health care facility that has contracted with the 1467
insurer to provide health care services to insureds, which conduct 1468
adversely affects, or could adversely affect, the health or 1469
welfare of any patient; 1470

(i) A peer review committee of any insurer authorized under 1471
Title XXXIX of the Revised Code to do the business of medical 1472
professional liability insurance in this state that conducts 1473
professional quality review activities involving the competence or 1474
professional conduct of health care providers that adversely 1475
affects or could affect the health or welfare of any patient; 1476

(j) A peer review committee of the bureau of workers' 1477
compensation responsible for reviewing the professional 1478
qualifications and the performance of providers conducting medical 1479
examinations or file reviews for the bureau; 1480

(k) Any other peer review committee of a health care entity. 1481

(F) "Physician" means an individual authorized to practice 1482
medicine and surgery, osteopathic medicine and surgery, or 1483
podiatric medicine and surgery. 1484

(G) "Sickness and accident insurer" means an entity 1485
authorized under Title XXXIX of the Revised Code to do the 1486
business of sickness and accident insurance in this state. 1487

(H) "Tort action" means a civil action for damages for 1488
injury, death, or loss to a patient of a health care entity. "Tort 1489

action" includes a product liability claim, as defined in section 1490
2307.71 of the Revised Code, and an asbestos claim, as defined in 1491
section 2307.91 of the Revised Code, but does not include a civil 1492
action for a breach of contract or another agreement between 1493
persons. 1494

Sec. 2305.36. (A) As used in this section: 1495

(1) "Cumulative consumption" means, with respect to a health 1496
condition, any health condition, including, but not limited to, 1497
increased cholesterol, heart disease, or high blood pressure, that 1498
is caused by successive consumption of a qualified product. 1499

(2) "Person engaged in the business" means a person who 1500
manufactures, markets, distributes, advertises, or sells a 1501
qualified product in the regular course of the person's trade or 1502
business. 1503

(3) "Manufacturer" and "supplier" have the same meanings as 1504
in section 2307.71 of the Revised Code. 1505

(4) "Qualified product" means all of the following: 1506

(a) Articles used for food or drink for a human being or 1507
other animal; 1508

(b) Chewing gum; 1509

(c) Articles used for components of any article listed in 1510
division (A)(4)(a) or (b) of this section. 1511

(5) "Seller" means, with respect to a qualified product, a 1512
person lawfully engaged in the business of marketing, 1513
distributing, advertising, or selling the product. 1514

(6) "Trade association" means any association or business 1515
organization that is not operated for profit and in which two or 1516
more members of the trade association are manufacturers, 1517
marketers, distributors, advertisers, or sellers of a qualified 1518

product. 1519

(B) Except as provided in division (D) of this section, no manufacturer, seller, or supplier of a qualified product and no trade association is liable for injury, death, or loss to person or property for damages, is subject to an action for declaratory judgment, injunctive relief, or declaratory relief, or is responsible for restitution, damages, or other relief arising out of, resulting from, or related to cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity. 1520
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(C) A party that prevails on a motion to dismiss an action under division (B) of this section may recover reasonable attorney's fees and costs that the party incurred in connection with the motion to dismiss. 1529
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(D) The immunity from liability provided in division (B) of this section does not apply to any of the following if it, alone or in combination with any of the following, was the predominate proximate cause of the claim of injury, death, or loss resulting from cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity: 1533
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(1) The misbranding of the qualified product involved; 1540

(2) Any knowing and willful violation of state or federal law that applies to the qualified product involved; 1541
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(3) Any breach of express contract or breach of express warranty in connection with the purchase of the qualified product involved. 1543
1544
1545

(E) Nothing in this section shall be construed as creating any new cause of action for a claim of injury, death, or loss resulting from a person's cumulative consumption, weight gain, 1546
1547
1548

obesity, or any health condition that is related to cumulative 1549
consumption, weight gain, or obesity. 1550

Sec. 2307.011. As used in Chapters 2307. and 2315. of the 1551
Revised Code: 1552

(A) "Conduct" means actions or omissions. 1553

(B) "Contributory fault" means contributory negligence, other 1554
contributory tortious conduct, ~~comparative negligence,~~ or, except 1555
as provided with respect to product liability claims in section 1556
2307.711 of the Revised Code, express or implied assumption of the 1557
risk. 1558

(C) "Economic loss" means any of the following types of 1559
pecuniary harm: 1560

(1) All wages, salaries, or other compensation lost as a 1561
result of an injury, death, or loss to person or property that is 1562
a subject of a tort action, including wages, salaries, or other 1563
compensation lost as of the date of a judgment and future expected 1564
lost earnings; 1565

(2) All expenditures for medical care or treatment, 1566
rehabilitation services, or other care, treatment, services, 1567
products, or accommodations incurred as a result of an injury, 1568
death, or loss to person that is a subject of a tort action, 1569
including expenditures for those purposes that were incurred as of 1570
the date of a judgment and expenditures for those purposes that, 1571
in the determination of the trier of fact, will be incurred in the 1572
future because of the injury, whether paid by the injured person 1573
or by another person on behalf of the injured person; 1574

(3) All expenditures of a person whose property was injured 1575
or destroyed or of another person on behalf of the person whose 1576
property was injured or destroyed in order to repair or replace 1577
the property; 1578

(4) Any other expenditures incurred as a result of an injury, 1579
death, or loss to person or property that is a subject of a tort 1580
action, except expenditures of the injured person, the person 1581
whose property was injured or destroyed, or another person on 1582
behalf of the injured person or the person whose property was 1583
injured or destroyed in relation to the actual preparation or 1584
presentation of the claim involved. 1585

(D) "Intentional tort claim" means a claim alleging that a 1586
tortfeasor intentionally caused or intentionally contributed to 1587
the injury or loss to person or property or the wrongful death or 1588
that a tortfeasor knew or believed that the injury or loss to 1589
person or property or the wrongful death was substantially certain 1590
to result from the tortfeasor's conduct. As used in sections 1591
2307.22, 2307.711, and 2315.32, ~~and 2315.42~~ of the Revised Code, 1592
"intentional tort claim" does not include an intentional tort 1593
claim alleged by an employee or the employee's legal 1594
representative against the employee's employer and that arises 1595
from the tortfeasor's conduct that occurs on premises owned, 1596
leased, or supervised by the employer. 1597

~~(E) "Negligence claim" means a civil action for damages for 1598
injury, death, or loss to person or property to the extent that 1599
the damages are sought or recovered based on allegation or proof 1600
of negligence. 1601~~

~~(F)~~ "Noneconomic loss" means nonpecuniary harm that results 1602
from an injury, death, or loss to person that is a subject of a 1603
tort action, including, but not limited to, pain and suffering; 1604
loss of society, consortium, companionship, care, assistance, 1605
attention, protection, advice, guidance, counsel, instruction, 1606
training, or education; mental anguish; and any other intangible 1607
loss. 1608

~~(G)~~(F) "Person" has the same meaning as in division (C) of 1609

section 1.59 of the Revised Code and additionally includes a 1610
political subdivision and the state. 1611

~~(H)~~(G) "Persons from whom the plaintiff does not seek 1612
recovery in this action" includes, but is not limited to, the 1613
following: 1614

(1) Persons who have entered into a settlement agreement with 1615
the plaintiff; 1616

(2) Persons whom the plaintiff has dismissed from the tort 1617
action without prejudice; 1618

(3) Persons whom the plaintiff has dismissed from the tort 1619
action with prejudice; 1620

(4) Persons who are not a party to the tort action whether or 1621
not that person was or could have been a party to the tort action 1622
if the name of the person has been disclosed prior to trial. 1623

~~(I)~~(H) "Plaintiff" includes the person for whom the plaintiff 1624
is legal representative. 1625

~~(J)~~(I) "Political subdivision" and "state" have the same 1626
meanings as in section 2744.01 of the Revised Code. 1627

~~(K)~~(J) "Tort action" means a civil action for damages for 1628
injury, death, or loss to person or property. "Tort action" 1629
includes a product liability claim, as defined in section 2307.71 1630
of the Revised Code, and an asbestos claim, as defined in section 1631
2307.91 of the Revised Code, but does not include a civil action 1632
for damages for a breach of contract or another agreement between 1633
persons. 1634

~~(L)~~(K) "Trier of fact" means the jury or, in a nonjury 1635
action, the court. 1636

Sec. 2307.23. (A) In determining the percentage of tortious 1637
conduct attributable to a party in a tort action under section 1638

2307.22, or sections 2315.32 to 2315.36, ~~or sections 2315.41 to~~ 1639
~~2315.46~~ of the Revised Code, the court in a nonjury action shall 1640
make findings of fact, and the jury in a jury action shall return 1641
a general verdict accompanied by answers to interrogatories, that 1642
shall specify all of the following: 1643

(1) The percentage of tortious conduct that proximately 1644
caused the injury or loss to person or property or the wrongful 1645
death that is attributable to the plaintiff and to each party to 1646
the tort action from whom the plaintiff seeks recovery in this 1647
action; 1648

(2) The percentage of tortious conduct that proximately 1649
caused the injury or loss to person or property or the wrongful 1650
death that is attributable to each person from whom the plaintiff 1651
does not seek recovery in this action. 1652

(B) The sum of the percentages of tortious conduct as 1653
determined pursuant to division (A) of this section shall equal 1654
one hundred per cent. 1655

(C) For purposes of division (A)(2) of this section, it is an 1656
affirmative defense for each party to the tort action from whom 1657
the plaintiff seeks recovery in this action that a specific 1658
percentage of the tortious conduct that proximately caused the 1659
injury or loss to person or property or the wrongful death is 1660
attributable to one or more persons from whom the plaintiff does 1661
not seek recovery in this action. Any party to the tort action 1662
from whom the plaintiff seeks recovery in this action may raise an 1663
affirmative defense under this division at any time before the 1664
trial of the action. 1665

Sec. 2307.29. No provision of sections 2307.25 to 2307.28 of 1666
the Revised Code applies to a ~~negligence or other~~ tort claim to 1667
the extent that sections 2307.22 to 2307.24, or sections 2315.32 1668

to 2315.36, ~~or sections 2315.41 to 2315.46~~ of the Revised Code 1669
make a party against whom a judgment is entered liable to the 1670
plaintiff only for the proportionate share of that party as 1671
described in those sections. 1672

Sec. 2307.60. (A) Anyone injured in person or property by a 1673
criminal act has, and may recover full damages in, a civil action 1674
unless specifically excepted by law, may recover the costs of 1675
maintaining the civil action and attorney's fees if authorized by 1676
any provision of the Rules of Civil Procedure or another section 1677
of the Revised Code or under the common law of this state, and may 1678
recover punitive or exemplary damages if authorized by section 1679
2315.21 or another section of the Revised Code. No record of a 1680
conviction, unless obtained by confession in open court, shall be 1681
used as evidence in a civil action brought pursuant to division 1682
(A) of this section. 1683

(B)(1) As used in division (B) of this section, "tort action" 1684
means a civil action for damages for injury, death, or loss to 1685
person or property other than a civil action for damages for a 1686
breach of contract or another agreement between persons. "Tort 1687
action" includes, but is not limited to, a product liability 1688
claim, as defined in section 2307.71 of the Revised Code, and an 1689
asbestos claim, as defined in section 2307.91 of the Revised Code, 1690
an action for wrongful death under Chapter 2125. of the Revised 1691
Code, and an action based on derivative claims for relief. 1692

(2) Recovery on a claim for relief in a tort action is barred 1693
to any person or the person's legal representative if the person 1694
has been convicted of or has pleaded guilty to a felony, or to a 1695
misdemeanor that is an offense of violence, arising out of 1696
criminal conduct that was a proximate cause of the injury or loss 1697
for which relief is claimed in the action. 1698

(3) Division (B) of this section does not apply to civil claims based upon alleged intentionally tortious conduct, alleged violations of the United States Constitution, or alleged violations of statutes of the United States pertaining to civil rights.

Sec. 2307.71. (A) As used in sections 2307.71 to 2307.80 of the Revised Code:

~~(A)~~(1) "Claimant" means either of the following:

~~(1)~~(a) A person who asserts a product liability claim or on whose behalf such a claim is asserted;

~~(2)~~(b) If a product liability claim is asserted on behalf of the surviving spouse, children, parents, or other next of kin of a decedent or on behalf of the estate of a decedent, whether as a claim in a wrongful death action under Chapter 2125. of the Revised Code or as a survivorship claim, whichever of the following is appropriate:

~~(a)~~(i) The decedent, if the reference is to the person who allegedly sustained harm or economic loss for which, or in connection with which, compensatory damages or punitive or exemplary damages are sought to be recovered;

~~(b)~~(ii) The personal representative of the decedent or the estate of the decedent, if the reference is to the person who is asserting or has asserted the product liability claim.

~~(B)~~(2) "Economic loss" means direct, incidental, or consequential pecuniary loss, including, but not limited to, damage to the product in question, and nonphysical damage to property other than that product. Harm is not "economic loss."

~~(C)~~(3) "Environment" means navigable waters, surface water, ground water, drinking water supplies, land surface, subsurface strata, and air.

~~(D)~~(4) "Ethical drug" means a prescription drug that is 1729
prescribed or dispensed by a physician or any other person who is 1730
legally authorized to prescribe or dispense a prescription drug. 1731

~~(E)~~(5) "Ethical medical device" means a medical device that 1732
is prescribed, dispensed, or implanted by a physician or any other 1733
person who is legally authorized to prescribe, dispense, or 1734
implant a medical device and that is regulated under the "Federal 1735
Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 301-392, 1736
as amended. 1737

~~(F)~~(6) "Foreseeable risk" means a risk of harm that satisfies 1738
both of the following: 1739

~~(1)~~(a) It is associated with an intended or reasonably 1740
foreseeable use, modification, or alteration of a product in 1741
question. 1742

~~(2)~~(b) It is a risk that the manufacturer in question should 1743
recognize while exercising both of the following: 1744

~~(a)~~(i) The attention, perception, memory, knowledge, and 1745
intelligence that a reasonable manufacturer should possess; 1746

~~(b)~~(ii) Any superior attention, perception, memory, 1747
knowledge, or intelligence that the manufacturer in question 1748
possesses. 1749

~~(G)~~(7) "Harm" means death, physical injury to person, serious 1750
emotional distress, or physical damage to property other than the 1751
product in question. Economic loss is not "harm." 1752

~~(H)~~(8) "Hazardous or toxic substances" include, but are not 1753
limited to, hazardous waste as defined in section 3734.01 of the 1754
Revised Code, hazardous waste as specified in the rules of the 1755
director of environmental protection pursuant to division (A) of 1756
section 3734.12 of the Revised Code, hazardous substances as 1757
defined in section 3716.01 of the Revised Code, and hazardous 1758

substances, pollutants, and contaminants as defined in or by 1759
regulations adopted pursuant to the "Comprehensive Environmental 1760
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 1761
42 U.S.C. 9601, as amended. 1762

~~(I)~~(9) "Manufacturer" means a person engaged in a business to 1763
design, formulate, produce, create, make, construct, assemble, or 1764
rebuild a product or a component of a product. 1765

~~(J)~~(10) "Person" has the same meaning as in division (C) of 1766
section 1.59 of the Revised Code and also includes governmental 1767
entities. 1768

~~(K)~~(11) "Physician" means a person who is licensed to 1769
practice medicine and surgery or osteopathic medicine and surgery 1770
by the state medical board. 1771

~~(L)~~(1)(12)(a) "Product" means, subject to division 1772
~~(L)~~(2)(A)(12)(b) of this section, any object, substance, mixture, 1773
or raw material that constitutes tangible personal property and 1774
that satisfies all of the following: 1775

~~(a)~~(i) It is capable of delivery itself, or as an assembled 1776
whole in a mixed or combined state, or as a component or 1777
ingredient~~+~~. 1778

~~(b)~~(ii) It is produced, manufactured, or supplied for 1779
introduction into trade or commerce~~+~~. 1780

~~(c)~~(iii) It is intended for sale or lease to persons for 1781
commercial or personal use. 1782

~~(2)~~(b) "Product" does not include human tissue, blood, or 1783
organs. 1784

~~(M)~~(13) "Product liability claim" means a claim that is 1785
asserted in a civil action pursuant to sections 2307.71 to 2307.80 1786
of the Revised Code and that seeks to recover compensatory damages 1787
from a manufacturer or supplier for death, physical injury to 1788

person, emotional distress, or physical damage to property other 1789
than the product in question, that allegedly arose from any of the 1790
following: 1791

~~(1)~~(a) The design, formulation, production, construction, 1792
creation, assembly, rebuilding, testing, or marketing of that 1793
product; 1794

~~(2)~~(b) Any warning or instruction, or lack of warning or 1795
instruction, associated with that product; 1796

~~(3)~~(c) Any failure of that product to conform to any relevant 1797
representation or warranty. 1798

~~(N)~~(14) "Representation" means an express representation of a 1799
material fact concerning the character, quality, or safety of a 1800
product. 1801

~~(O)~~~~(1)~~(15)(a) "Supplier" means, subject to division 1802
~~(O)~~~~(2)~~(A)(15)(b) of this section, either of the following: 1803

~~(a)~~(i) A person that, in the course of a business conducted 1804
for the purpose, sells, distributes, leases, prepares, blends, 1805
packages, labels, or otherwise participates in the placing of a 1806
product in the stream of commerce; 1807

~~(b)~~(ii) A person that, in the course of a business conducted 1808
for the purpose, installs, repairs, or maintains any aspect of a 1809
product that allegedly causes harm. 1810

~~(2)~~(b) "Supplier" does not include any of the following: 1811

~~(a)~~(i) A manufacturer; 1812

~~(b)~~(ii) A seller of real property; 1813

~~(e)~~(iii) A provider of professional services who, incidental 1814
to a professional transaction the essence of which is the 1815
furnishing of judgment, skill, or services, sells or uses a 1816
product; 1817

~~(d)~~(iv) Any person who acts only in a financial capacity with respect to the sale of a product, or who leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

~~(P)~~(16) "Unavoidably unsafe" means that, in the state of technical, scientific, and medical knowledge at the time a product in question left the control of its manufacturer, an aspect of that product was incapable of being made safe.

(B) Sections 2307.71 to 2307.80 of the Revised Code are intended to abrogate all common law product liability causes of action.

Sec. 2307.711. (A) Subject to divisions (B)(1), (2), and (3) of this section, sections 2315.32 to 2315.36 of the Revised Code apply to a product liability claim that is asserted pursuant to sections 2307.71 to 2307.80 of the Revised Code.

(B)(1) Express or implied assumption of the risk may be asserted as an affirmative defense to a product liability claim under sections 2307.71 to 2307.80 of the Revised Code, except that express or implied assumption of the risk may not be asserted as an affirmative defense to an intentional tort claim.

(2) Subject to division (B)(3) of this section, if express or implied assumption of the risk is asserted as an affirmative defense to a product liability claim under sections 2307.71 to 2307.80 of the Revised Code and if it is determined that the claimant expressly or impliedly assumed a risk and that the express or implied assumption of the risk was a direct and proximate cause of harm for which the claimant seeks to recover damages, the express or implied assumption of the risk is a complete bar to the recovery of those damages.

(3) If implied assumption of the risk is asserted as an 1848
affirmative defense to a product liability claim against a 1849
supplier under division (A)(1) of section 2307.78 of the Revised 1850
Code, sections 2315.32 to 2315.36 of the Revised Code are 1851
applicable to that affirmative defense and shall be used to 1852
determine whether the claimant is entitled to recover compensatory 1853
damages based on that claim and the amount of any recoverable 1854
compensatory damages. 1855

Sec. 2307.75. (A) Subject to divisions (D), (E), and (F) of 1856
this section, a product is defective in design or formulation if 1857
~~either of the following applies:~~ 1858

~~(1) When, at the time it left the control of its~~ 1859
manufacturer, the foreseeable risks associated with its design or 1860
formulation as determined pursuant to division (B) of this section 1861
exceeded the benefits associated with that design or formulation 1862
as determined pursuant to division (C) of this section: 1863

~~(2) It is more dangerous than an ordinary consumer would~~ 1864
~~expect when used in an intended or reasonably foreseeable manner.~~ 1865

(B) The foreseeable risks associated with the design or 1866
formulation of a product shall be determined by considering 1867
factors including, but not limited to, the following: 1868

(1) The nature and magnitude of the risks of harm associated 1869
with that design or formulation in light of the intended and 1870
reasonably foreseeable uses, modifications, or alterations of the 1871
product; 1872

(2) The likely awareness of product users, whether based on 1873
warnings, general knowledge, or otherwise, of those risks of harm; 1874

(3) The likelihood that that design or formulation would 1875
cause harm in light of the intended and reasonably foreseeable 1876
uses, modifications, or alterations of the product; 1877

(4) The extent to which that design or formulation conformed 1878
to any applicable public or private product standard that was in 1879
effect when the product left the control of its manufacturer; 1880

(5) The extent to which that design or formulation is more 1881
dangerous than a reasonably prudent consumer would expect when used 1882
in an intended or reasonably foreseeable manner. 1883

(C) The benefits associated with the design or formulation of 1884
a product shall be determined by considering factors including, 1885
but not limited to, the following: 1886

(1) The intended or actual utility of the product, including 1887
any performance or safety advantages associated with that design 1888
or formulation; 1889

(2) The technical and economic feasibility, when the product 1890
left the control of its manufacturer, of using an alternative 1891
design or formulation; 1892

(3) The nature and magnitude of any foreseeable risks 1893
associated with ~~such~~ an alternative design or formulation. 1894

(D) An ethical drug or ethical medical device is not 1895
defective in design or formulation because some aspect of it is 1896
unavoidably unsafe, if the manufacturer of the ethical drug or 1897
ethical medical device provides adequate warning and instruction 1898
under section 2307.76 of the Revised Code concerning that 1899
unavoidably unsafe aspect. 1900

(E) A product is not defective in design or formulation if 1901
the harm for which the claimant seeks to recover compensatory 1902
damages was caused by an inherent characteristic of the product 1903
which is a generic aspect of the product that cannot be eliminated 1904
without substantially compromising the product's usefulness or 1905
desirability and which is recognized by the ordinary person with 1906
the ordinary knowledge common to the community. 1907

(F) A product is not defective in design or formulation if, 1908
at the time the product left the control of its manufacturer, a 1909
practical and technically feasible alternative design or 1910
formulation was not available that would have prevented the harm 1911
for which the claimant seeks to recover compensatory damages 1912
without substantially impairing the usefulness or intended purpose 1913
of the product, ~~unless the manufacturer acted unreasonably in~~ 1914
~~introducing the product into trade or commerce.~~ 1915

Sec. 2307.80. (A) Subject to ~~division~~ divisions (C) and (D) 1916
of this section, punitive or exemplary damages shall not be 1917
awarded against a manufacturer or supplier in question in 1918
connection with a product liability claim unless the claimant 1919
establishes, by clear and convincing evidence, that harm for which 1920
the claimant is entitled to recover compensatory damages in 1921
accordance with section 2307.73 or 2307.78 of the Revised Code was 1922
the result of misconduct of the manufacturer or supplier in 1923
question that manifested a flagrant disregard of the safety of 1924
persons who might be harmed by the product in question. The fact 1925
by itself that a product is defective does not establish a 1926
flagrant disregard of the safety of persons who might be harmed by 1927
that product. 1928

(B) Whether the trier of fact is a jury or the court, if the 1929
trier of fact determines that a manufacturer or supplier in 1930
question is liable for punitive or exemplary damages in connection 1931
with a product liability claim, the amount of those damages shall 1932
be determined by the court. In determining the amount of punitive 1933
or exemplary damages, the court shall consider factors including, 1934
but not limited to, the following: 1935

(1) The likelihood that serious harm would arise from the 1936
misconduct of the manufacturer or supplier in question; 1937

(2) The degree of the awareness of the manufacturer or 1938

supplier in question of that likelihood;	1939
(3) The profitability of the misconduct to the manufacturer or supplier in question;	1940 1941
(4) The duration of the misconduct and any concealment of it by the manufacturer or supplier in question;	1942 1943
(5) The attitude and conduct of the manufacturer or supplier in question upon the discovery of the misconduct and whether the misconduct has terminated;	1944 1945 1946
(6) The financial condition of the manufacturer or supplier in question;	1947 1948
(7) The total effect of other punishment imposed or likely to be imposed upon the manufacturer or supplier in question as a result of the misconduct, including awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the manufacturer or supplier in question has been or is likely to be subjected.	1949 1950 1951 1952 1953 1954
(C) If <u>(1) Except as provided in division (C)(2) of this section, if</u> a claimant alleges in a product liability claim that a drug <u>or device</u> caused harm to the claimant, the manufacturer of the drug <u>or device</u> shall not be liable for punitive or exemplary damages in connection with that product liability claim if the drug <u>or device</u> that allegedly caused the harm <u>satisfies either of the following:</u>	1955 1956 1957 1958 1959 1960 1961
<u>(a) It</u> was manufactured and labeled in relevant and material respects in accordance with the terms of an approval or license issued by the federal food and drug administration under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301-392, as amended, or the "Public Health Service Act," 58 Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as amended, unless it is established.	1962 1963 1964 1965 1966 1967 1968

(b) It was an over-the-counter drug marketed pursuant to 1969
federal regulations, was generally recognized as safe and 1970
effective and as not being misbranded pursuant to the applicable 1971
federal regulations, and satisfied in relevant and material 1972
respects each of the conditions contained in the applicable 1973
regulations and each of the conditions contained in an applicable 1974
monograph. 1975

(2) Division (C)(1) of this section does not apply if the 1976
claimant establishes, by a preponderance of the evidence, that the 1977
manufacturer fraudulently and in violation of applicable 1978
regulations of the food and drug administration withheld from the 1979
food and drug administration information known to be material and 1980
relevant to the harm that the claimant allegedly suffered or 1981
misrepresented to the food and drug administration information of 1982
that type. For 1983

(3) For purposes of this division, "drug divisions (C) and 1984
(D) of this section: 1985

(a) "Drug" has the same meaning given to that term as in the 1986
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 1041 1987
(1938), 21 U.S.C. 321(g)(1), as amended. 1988

(b) "Device" has the same meaning as in the "Federal Food, 1989
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 1990
321(h), as amended. 1991

(D)(1) If a claimant alleges in a product liability claim 1992
that a product other than a drug or device caused harm to the 1993
claimant, the manufacturer or supplier of the product shall not be 1994
liable for punitive or exemplary damages in connection with the 1995
claim if the manufacturer or supplier fully complied with all 1996
applicable government safety and performance standards, whether or 1997
not designated as such by the government, relative to the 1998
product's manufacture or construction, the product's design or 1999

formulation, adequate warnings or instructions, and 2000
representations when the product left the control of the 2001
manufacturer or supplier, and the claimant's injury results from 2002
an alleged defect of a product's manufacture or construction, the 2003
product's design or formulation, adequate warnings or 2004
instructions, and representations for which there is an applicable 2005
government safety or performance standard. 2006

(2) Division (D)(1) of this section does not apply if the 2007
claimant establishes, by a preponderance of the evidence, that the 2008
manufacturer or supplier of the product other than a drug or 2009
device fraudulently and in violation of applicable government 2010
safety and performance standards, whether or not designated as 2011
such by the government, withheld from an applicable government 2012
agency information known to be material and relevant to the harm 2013
that the claimant allegedly suffered or misrepresented to an 2014
applicable government agency information of that type. 2015

(E) The bifurcated trial provisions of division (B) of 2016
section 2315.21 of the Revised Code, the ceiling on recoverable 2017
punitive or exemplary damages specified in division (D)(1) of that 2018
section, and the provisions of division (D)(3) of that section 2019
apply to awards of punitive or exemplary damages under this 2020
section. 2021

Sec. 2307.97. (A) As used in this section: 2022

(1) "Asbestos" means chrysotile, amosite, crocidolite, 2023
tremolite asbestos, anthophyllite asbestos, actinolite asbestos, 2024
and any of these minerals that have been chemically treated or 2025
altered. 2026

(2) "Asbestos claim" means any claim, wherever or whenever 2027
made, for damages, losses, indemnification, contribution, or other 2028
relief arising out of, based on, or in any way related to 2029

asbestos. "Asbestos claim" includes any of the following: 2030

(a) A claim made by or on behalf of any person who has been 2031
exposed to asbestos, or any representative, spouse, parent, child, 2032
or other relative of that person, for injury, including mental or 2033
emotional injury, death, or loss to person, risk of disease or 2034
other injury, costs of medical monitoring or surveillance, or any 2035
other effects on the person's health that are caused by the 2036
person's exposure to asbestos; 2037

(b) A claim for damage or loss to property that is caused by 2038
the installation, presence, or removal of asbestos. 2039

(3) "Corporation" means a corporation for profit, including 2040
the following: 2041

(a) A domestic corporation that is organized under the laws 2042
of this state; 2043

(b) A foreign corporation that is organized under laws other 2044
than the laws of this state and that has had a certificate of 2045
authority to transact business in this state or has done business 2046
in this state. 2047

(4) "Successor" means a corporation or a subsidiary of a 2048
corporation that assumes or incurs, or had assumed or incurred, 2049
successor asbestos-related liabilities or had successor 2050
asbestos-related liabilities imposed on it by court order. 2051

(5)(a) "Successor asbestos-related liabilities" means any 2052
liabilities, whether known or unknown, asserted or unasserted, 2053
absolute or contingent, accrued or unaccrued, liquidated or 2054
unliquidated, or due or to become due, if the liabilities are 2055
related in any way to asbestos claims and either of the following 2056
applies: 2057

(i) The liabilities are assumed or incurred by a successor as 2058
a result of or in connection with an asset purchase, stock 2059

purchase, merger, consolidation, or agreement providing for an 2060
asset purchase, stock purchase, merger, or consolidation, 2061
including a plan of merger. 2062

(ii) The liabilities were imposed by court order on a 2063
successor. 2064

(b) "Successor asbestos-related liabilities" includes any 2065
liabilities described in division (A)(5)(a)(i) of this section 2066
that, after the effective date of the asset purchase, stock 2067
purchase, merger, or consolidation, are paid, otherwise 2068
discharged, committed to be paid, or committed to be otherwise 2069
discharged by or on behalf of the successor, or by or on behalf of 2070
a transferor, in connection with any judgment, settlement, or 2071
other discharge of those liabilities in this state or another 2072
jurisdiction. 2073

(6) "Transferor" means a corporation or its shareholders from 2074
which successor asbestos-related liabilities are or were assumed 2075
or incurred by a successor or were imposed by court order on a 2076
successor. 2077

(B) The limitations set forth in division (C) of this section 2078
apply to a corporation that is either of the following: 2079

(1) A successor that became a successor prior to January 1, 2080
1972, if either of the following applies: 2081

(a) In the case of a successor in a stock purchase or an 2082
asset purchase, the successor paid less than fifteen million 2083
dollars for the stock or assets of the transferor. 2084

(b) In the case of a successor in a merger or consolidation, 2085
the fair market value of the total gross assets of the transferor, 2086
at the time of the merger or consolidation, excluding any 2087
insurance of the transferor, was less than fifty million dollars. 2088

(2) Any successor to a prior successor if the prior successor 2089

met the requirements of division (B)(1)(a) or (b) of this section, 2090
whichever is applicable. 2091

(C)(1) Except as otherwise provided in division (C)(2) of 2092
this section, the cumulative successor asbestos-related 2093
liabilities of a corporation shall be limited to either of the 2094
following: 2095

(a) In the case of a corporation that is a successor in a 2096
stock purchase or an asset purchase, the fair market value of the 2097
acquired stock or assets of the transferor, as determined on the 2098
effective date of the stock or asset purchase; 2099

(b) In the case of a corporation that is a successor in a 2100
merger or consolidation, the fair market value of the total gross 2101
assets of the transferor, as determined on the effective date of 2102
the merger or consolidation. 2103

(2)(a) If a transferor had assumed or incurred successor 2104
asbestos-related liabilities in connection with a prior purchase 2105
of assets or stock involving a prior transferor, the fair market 2106
value of the assets or stock purchased from the prior transferor, 2107
determined as of the effective date of the prior purchase of the 2108
assets or stock, shall be substituted for the limitation set forth 2109
in division (C)(1)(a) of this section for the purpose of 2110
determining the limitation of the liability of a corporation. 2111

(b) If a transferor had assumed or incurred successor 2112
asbestos-related liabilities in connection with a merger or 2113
consolidation involving a prior transferor, the fair market value 2114
of the total gross assets of the prior transferor, determined as 2115
of the effective date of the prior merger or consolidation, shall 2116
be substituted for the limitation set forth in division (C)(1)(b) 2117
of this section for the purpose of determining the limitation of 2118
the liability of a corporation. 2119

(3) A corporation described in division (C)(1) or (2) of this 2120

section shall have no responsibility for any successor 2121
asbestos-related liabilities in excess of the limitation of those 2122
liabilities as described in the applicable division. 2123

(D)(1) A corporation may establish the fair market value of 2124
assets, stock, or total gross assets under division (C) of this 2125
section by means of any method that is reasonable under the 2126
circumstances, including by reference to their going-concern 2127
value, to the purchase price attributable to or paid for them in 2128
an arm's length transaction, or, in the absence of other readily 2129
available information from which fair market value can be 2130
determined, to their value recorded on a balance sheet. Assets and 2131
total gross assets shall include intangible assets. A showing by 2132
the successor of a reasonable determination of the fair market 2133
value of assets, stock, or total gross assets is prima-facie 2134
evidence of their fair market value. 2135

(2) For purposes of establishing the fair market value of 2136
total gross assets under division (D)(1) of this section, the 2137
total gross assets include the aggregate coverage under any 2138
applicable liability insurance that was issued to the transferor 2139
the assets of which are being valued for purposes of the 2140
limitations set forth in division (C) of this section, if the 2141
insurance has been collected or is collectable to cover the 2142
successor asbestos-related liabilities involved. Those successor 2143
asbestos-related liabilities do not include any compensation for 2144
any liabilities arising from the exposure of workers to asbestos 2145
solely during the course of their employment by the transferor. 2146
Any settlement of a dispute concerning the insurance coverage 2147
described in this division that is entered into by a transferor or 2148
successor with the insurer of the transferor before the effective 2149
date of this section is determinative of the aggregate coverage of 2150
the liability insurance that is included in the determination of 2151
the transferor's total gross assets. 2152

(3) After a successor has established a reasonable 2153
determination of the fair market value of assets, stock, or total 2154
gross assets under divisions (D)(1) and (2) of this section, a 2155
claimant that disputes that determination of the fair market value 2156
has the burden of establishing a different fair market value. 2157

(4)(a) Subject to divisions (D)(4)(b), (c), and (d) of this 2158
section, the fair market value of assets, stock, or total gross 2159
assets at the time of the asset purchase, stock purchase, merger, 2160
or consolidation increases annually, at a rate equal to the sum of 2161
the following: 2162

(i) The prime rate as listed in the first edition of the wall 2163
street journal published for each calendar year since the 2164
effective date of the asset purchase, stock purchase, merger, or 2165
consolidation, or, if the prime rate is not published in that 2166
edition of the wall street journal, the prime rate as reasonably 2167
determined on the first business day of the year; 2168

(ii) One per cent. 2169

(b) The rate that is determined pursuant to division 2170
(D)(4)(a) of this section shall not be compounded. 2171

(c) The adjustment of the fair market value of assets, stock, 2172
or total gross assets shall continue in the manner described in 2173
division (D)(4)(a) of this section until the adjusted fair market 2174
value is first exceeded by the cumulative amounts of successor 2175
asbestos-related liabilities that are paid or committed to be paid 2176
by or on behalf of a successor or prior transferor, or by or on 2177
behalf of a transferor, after the time of the asset purchase, 2178
stock purchase, merger, or consolidation for which the fair market 2179
value of assets, stock, or total gross assets is determined. 2180

(d) No adjustment of the fair market value of total gross 2181
assets as provided in division (D)(4)(a) of this section shall be 2182
applied to any liability insurance that is otherwise included in 2183

<u>total gross assets as provided in division (D)(2) of this section.</u>	2184
<u>(E)(1) The limitations set forth in division (C) of this</u>	2185
<u>section shall apply to the following:</u>	2186
<u>(a) All asbestos claims, including asbestos claims that are</u>	2187
<u>pending on the effective date of this section, and all litigation</u>	2188
<u>involving asbestos claims, including litigation that is pending on</u>	2189
<u>the effective date of this section;</u>	2190
<u>(b) Successors of a corporation to which this section</u>	2191
<u>applies.</u>	2192
<u>(2) The limitations set forth in division (C) of this section</u>	2193
<u>do not apply to any of the following:</u>	2194
<u>(a) Workers' compensation benefits that are paid by or on</u>	2195
<u>behalf of an employer to an employee pursuant to any provision of</u>	2196
<u>Chapter 4121., 4123., 4127., or 4131. of the Revised Code or</u>	2197
<u>comparable workers' compensation law of another jurisdiction;</u>	2198
<u>(b) Any claim against a successor that does not constitute a</u>	2199
<u>claim for a successor asbestos-related liability;</u>	2200
<u>(c) Any obligations arising under the "National Labor</u>	2201
<u>Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., as amended,</u>	2202
<u>or under any collective bargaining agreement;</u>	2203
<u>(d) Any contractual rights to indemnification.</u>	2204
<u>(F) The courts in this state shall apply, to the fullest</u>	2205
<u>extent permissible under the Constitution of the United States,</u>	2206
<u>this state's substantive law, including the provisions of this</u>	2207
<u>section, to the issue of successor asbestos-related liabilities.</u>	2208
Sec. 2315.01. (A) When the jury is sworn, unless for special	2209
reasons the court otherwise directs, the trial shall proceed in	2210
the following order except as provided in section 2315.02 of the	2211
Revised Code:	2212

~~(A)~~(1) The plaintiff concisely ~~must~~ shall state the 2213
plaintiff's claim, and briefly may state the plaintiff's evidence 2214
to sustain it. 2215

~~(B)~~(2) The defendant ~~must then~~ briefly shall state the 2216
defendant's defense, and briefly may state the defendant's 2217
evidence in support of it. 2218

~~(C)~~(3) The party who would be defeated if no evidence were 2219
offered on either side, first, ~~must~~ shall produce that party's 2220
evidence, and the adverse party ~~must~~ shall then produce the 2221
adverse party's evidence. 2222

~~(D)~~(4) The parties then shall be confined to rebutting 2223
evidence, unless the court for good reasons, and in the 2224
furtherance of justice, permits them to offer evidence in their 2225
original cases. 2226

~~(E)~~(5) When the evidence is concluded, either party may 2227
present written instructions to the court on matters of law and 2228
request them to be given to the jury, ~~which instructions shall be~~ 2229
~~given or refused by the.~~ The court shall give or refuse to give 2230
the written instructions to the jury before the argument to the 2231
jury is commenced. 2232

~~(F)~~(6) The parties then may submit or argue the case to the 2233
jury. The party required first to produce that party's evidence 2234
shall have the opening and closing arguments. If several 2235
defendants, ~~having~~ have separate defenses, and appear by different 2236
counsel, the court shall arrange their relative order. 2237

~~(G)~~(7) The court, after the argument is concluded, and before 2238
proceeding with other business, shall charge the jury. ~~Any charge~~ 2239
~~shall be reduced to writing by the~~ The court shall reduce a charge 2240
to writing if either party, before the argument to the jury is 2241
commenced, requests it. ~~Such charge may be examined by the~~ The 2242
parties may examine that charge before any closing argument is 2243

made by any of the parties. A ~~If a charge or instruction, when so~~ 2244
~~is~~ written and given, as prescribed in this division, the court 2245
shall not ~~be~~ orally ~~qualified, modified~~ qualify, modify, or in any 2246
manner ~~explained~~ explain the charge or instruction to the jury ~~by~~ 2247
~~the court~~. All written charges and instructions shall be taken by 2248
the jurors in their retirement, shall be returned with their 2249
verdict into court, and shall remain on file with the papers of 2250
the case. 2251

(B) In all tort actions, the court shall instruct the jury 2252
regarding the extent to which an award of compensatory damages or 2253
punitive or exemplary damages is or is not subject to taxation 2254
under federal or state income tax laws. 2255

As used in this division, "tort action" means a civil action 2256
for damages for injury, death, or loss to person or property. 2257
"Tort action" includes a product liability claim, as defined in 2258
section 2307.71 of the Revised Code, and an asbestos claim, as 2259
defined in section 2307.91 of the Revised Code, but does not 2260
include a civil action for damages for breach of contract or 2261
another agreement between persons. 2262

Division (B) of this section shall be considered to be purely 2263
remedial in operation and shall be applied in a remedial manner in 2264
any civil action commenced on or after the effective date of this 2265
amendment, in which division (B) of this section is relevant, 2266
regardless of when the cause of action accrued and notwithstanding 2267
any other section of the Revised Code or prior rule of law of this 2268
state, but shall not be construed to apply to any civil action 2269
pending prior to the effective date of this amendment. 2270

Sec. 2315.18. (A) As used in this section and in section 2271
2315.19 of the Revised Code: 2272

(1) "Asbestos claim" has the same meaning as in section 2273
2307.91 of the Revised Code. 2274

<u>(2) "Economic loss" means any of the following types of</u>	2275
<u>pecuniary harm:</u>	2276
<u>(a) All wages, salaries, or other compensation lost as a</u>	2277
<u>result of an injury or loss to person or property that is a</u>	2278
<u>subject of a tort action;</u>	2279
<u>(b) All expenditures for medical care or treatment,</u>	2280
<u>rehabilitation services, or other care, treatment, services,</u>	2281
<u>products, or accommodations as a result of an injury or loss to</u>	2282
<u>person or property that is a subject of a tort action;</u>	2283
<u>(c) Any other expenditures incurred as a result of an injury</u>	2284
<u>or loss to person or property that is a subject of a tort action,</u>	2285
<u>other than attorney's fees incurred in connection with that</u>	2286
<u>action.</u>	2287
<u>(3) "Medical claim," "dental claim," "optometric claim," and</u>	2288
<u>"chiropractic claim" have the same meanings as in section 2305.113</u>	2289
<u>of the Revised Code.</u>	2290
<u>(4) "Noneconomic loss" means nonpecuniary harm that results</u>	2291
<u>from an injury or loss to person or property that is a subject of</u>	2292
<u>a tort action, including, but not limited to, pain and suffering,</u>	2293
<u>loss of society, consortium, companionship, care, assistance,</u>	2294
<u>attention, protection, advice, guidance, counsel, instruction,</u>	2295
<u>training, or education, disfigurement, mental anguish, and any</u>	2296
<u>other intangible loss.</u>	2297
<u>(5) "Occurrence" means all claims resulting from or arising</u>	2298
<u>out of any one person's bodily injury.</u>	2299
<u>(6) "Product liability claim" has the same meaning as in</u>	2300
<u>section 2307.71 of the Revised Code.</u>	2301
<u>(7) "Tort action" means a civil action for damages for injury</u>	2302
<u>or loss to person or property. "Tort action" includes a civil</u>	2303
<u>action upon a product liability claim or an asbestos claim. "Tort</u>	2304

action" does not include a civil action upon a medical claim, 2305
dental claim, optometric claim, or chiropractic claim or a civil 2306
action for damages for a breach of contract or another agreement 2307
between persons. 2308

(8) "Trier of fact" means the jury or, in a nonjury action, 2309
the court. 2310

(B) In a tort action to recover damages for injury or loss to 2311
person or property, all of the following apply: 2312

(1) There shall not be any limitation on the amount of 2313
compensatory damages that represents the economic loss of the 2314
person who is awarded the damages in the tort action. 2315

(2) Except as otherwise provided in division (B)(3) of this 2316
section, the amount of compensatory damages that represents 2317
damages for noneconomic loss that is recoverable in a tort action 2318
under this section to recover damages for injury or loss to person 2319
or property shall not exceed the greater of two hundred fifty 2320
thousand dollars or an amount that is equal to three times the 2321
economic loss, as determined by the trier of fact, of the 2322
plaintiff in that tort action to a maximum of three hundred fifty 2323
thousand dollars for each plaintiff in that tort action or a 2324
maximum of five hundred thousand dollars for each occurrence that 2325
is the basis of that tort action. 2326

(3) There shall not be any limitation on the amount of 2327
compensatory damages that represents damages for noneconomic loss 2328
that is recoverable in a tort action to recover damages for injury 2329
or loss to person or property if the noneconomic losses of the 2330
plaintiff are for either of the following: 2331

(a) Permanent and substantial physical deformity, loss of use 2332
of a limb, or loss of a bodily organ system; 2333

(b) Permanent physical functional injury that permanently 2334

prevents the injured person from being able to independently care 2335
for self and perform life-sustaining activities. 2336

(C) In determining an award of compensatory damages for 2337
noneconomic loss in a tort action, the trier of fact shall not 2338
consider any of the following: 2339

(1) Evidence of a defendant's alleged wrongdoing, misconduct, 2340
or quilt; 2341

(2) Evidence of the defendant's wealth or financial 2342
resources; 2343

(3) All other evidence that is offered for the purpose of 2344
punishing the defendant, rather than offered for a compensatory 2345
purpose. 2346

(D) If a trial is conducted in a tort action to recover 2347
damages for injury or loss to person or property and a plaintiff 2348
prevails in that action, the court in a nonjury trial shall make 2349
findings of fact, and the jury in a jury trial shall return a 2350
general verdict accompanied by answers to interrogatories, that 2351
shall specify all of the following: 2352

(1) The total compensatory damages recoverable by the 2353
plaintiff; 2354

(2) The portion of the total compensatory damages that 2355
represents damages for economic loss; 2356

(3) The portion of the total compensatory damages that 2357
represents damages for noneconomic loss. 2358

(E)(1) After the trier of fact in a tort action to recover 2359
damages for injury or loss to person or property complies with 2360
division (D) of this section, the court shall enter a judgment in 2361
favor of the plaintiff for compensatory damages for economic loss 2362
in the amount determined pursuant to division (D)(2) of this 2363
section, and, subject to division (F)(1) of this section, the 2364

court shall enter a judgment in favor of the plaintiff for 2365
compensatory damages for noneconomic loss. Except as provided in 2366
division (B)(3) of this section, in no event shall a judgment for 2367
compensatory damages for noneconomic loss exceed the maximum 2368
recoverable amount that represents damages for noneconomic loss as 2369
provided in division (B)(2) of this section. Division (B) of this 2370
section shall be applied in a jury trial only after the jury has 2371
made its factual findings and determination as to the damages. 2372

(2) Prior to the trial in the tort action described in 2373
division (D) of this section, any party may seek summary judgment 2374
with respect to the nature of the alleged injury or loss to person 2375
or property, seeking a determination of the damages as described 2376
in division (B)(2) of this section. 2377

(F)(1) A court of common pleas has no jurisdiction to enter 2378
judgment on an award of compensatory damages for noneconomic loss 2379
in excess of the limits set forth in this section. 2380

(2) If the trier of fact is a jury, the court shall not 2381
instruct the jury with respect to the limit on compensatory 2382
damages for noneconomic loss described in division (B)(2) of this 2383
section, and neither counsel for any party nor a witness shall 2384
inform the jury or potential jurors of that limit. 2385

(G) With respect to a tort action to which division (B)(2) of 2386
this section applies, any excess amount of compensatory damages 2387
for noneconomic loss that is greater than the applicable amount 2388
specified in division (B)(2) of this section shall not be 2389
reallocated to any other tortfeasor beyond the amount of 2390
compensatory damages that the tortfeasor would otherwise be 2391
responsible for under the laws of this state. 2392

(H) This section does not apply to any of the following: 2393

(1) Tort actions that are brought against the state in the 2394
court of claims, including, but not limited to, those actions in 2395

<u>which a state university or college is a defendant and to which</u>	2396
<u>division (B)(3) of section 3345.40 of the Revised Code applies;</u>	2397
<u>(2) Tort actions that are brought against political</u>	2398
<u>subdivisions of this state and that are commenced under or are</u>	2399
<u>subject to Chapter 2744. of the Revised Code. Division (C) of</u>	2400
<u>section 2744.05 of the Revised Code applies to recoverable damages</u>	2401
<u>in those actions.</u>	2402
<u>(3) Wrongful death actions brought pursuant to Chapter 2125.</u>	2403
<u>of the Revised Code.</u>	2404
<u>(I) If the provisions regarding the limits on compensatory</u>	2405
<u>damages for noneconomic loss set forth in division (B)(2) of this</u>	2406
<u>section have been determined to be unconstitutional, then division</u>	2407
<u>(C) of this section and section 2315.19 of the Revised Code shall</u>	2408
<u>govern the determination of an award of compensatory damages for</u>	2409
<u>noneconomic loss in a tort action.</u>	2410
Sec. 2315.19. <u>(A) Upon a post-judgment motion, a trial court</u>	2411
<u>in a tort action shall review the evidence supporting an award of</u>	2412
<u>compensatory damages for noneconomic loss that the defendant has</u>	2413
<u>challenged as excessive. That review shall include, but is not</u>	2414
<u>limited to, the following factors:</u>	2415
<u>(1) Whether the evidence presented or the arguments of the</u>	2416
<u>attorneys resulted in one or more of the following events in the</u>	2417
<u>determination of an award of compensatory damages for noneconomic</u>	2418
<u>loss:</u>	2419
<u>(a) It inflamed the passion or prejudice of the trier of</u>	2420
<u>fact.</u>	2421
<u>(b) It resulted in the improper consideration of the wealth</u>	2422
<u>of the defendant.</u>	2423
<u>(c) It resulted in the improper consideration of the</u>	2424
<u>misconduct of the defendant so as to punish the defendant</u>	2425

improperly or in circumvention of the limitation on punitive or
exemplary damages as provided in section 2315.21 of the Revised
Code. 2426
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(2) Whether the verdict is in excess of verdicts involving
comparable injuries to similarly situated plaintiffs; 2429
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(3) Whether there were any extraordinary circumstances in the
record to account for an award of compensatory damages for
noneconomic loss in excess of what was granted by courts to
similarly situated plaintiffs, with consideration given to the
type of injury, the severity of the injury, and the plaintiff's
age at the time of the injury. 2431
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(B) A trial court upholding an award of compensatory damages
for noneconomic loss that a party has challenged as inadequate or
excessive shall set forth in writing its reasons for upholding the
award. 2437
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(C) An appellate court shall use a de novo standard of review
when considering an appeal of an award of compensatory damages for
noneconomic loss on the grounds that the award is inadequate or
excessive. 2441
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Sec. 2315.20. (A) In any tort action, the defendant may
introduce evidence of any amount payable as a benefit to the
plaintiff as a result of the damages that result from an injury,
death, or loss to person or property that is the subject of the
claim upon which the action is based, except if the source of
collateral benefits has a mandatory self-effectuating federal
right of subrogation, a contractual right of subrogation, or a
statutory right of subrogation or if the source pays the plaintiff
a benefit that is in the form of a life insurance payment or a
disability payment. However, evidence of the life insurance
payment or disability payment may be introduced if the plaintiff's 2445
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employer paid for the life insurance or disability policy, and the 2456
employer is a defendant in the tort action. 2457

(B) If the defendant elects to introduce evidence described 2458
in division (A) of this section, the plaintiff may introduce 2459
evidence of any amount that the plaintiff has paid or contributed 2460
to secure the plaintiff's right to receive the benefits of which 2461
the defendant has introduced evidence. 2462

(C) A source of collateral benefits of which evidence is 2463
introduced pursuant to division (A) of this section shall not 2464
recover any amount against the plaintiff nor shall it be 2465
subrogated to the rights of the plaintiff against a defendant. 2466

(D) As used in this section: 2467

(1) "Tort action" means a civil action for damages for 2468
injury, death, or loss to person or property. "Tort action" 2469
includes a civil action upon a product liability claim and an 2470
asbestos claim. "Tort action" does not include a civil action upon 2471
a medical claim, dental claim, optometric claim, or chiropractic 2472
claim or a civil action for damages for a breach of contract or 2473
another agreement between persons. 2474

(2) "Medical claim," "dental claim," "optometric claim," and 2475
"chiropractic claim" have the same meanings as in section 2305.113 2476
of the Revised Code. 2477

(3) "Product liability claim" has the same meaning as in 2478
section 2307.71 of the Revised Code. 2479

(4) "Asbestos claim" has the same meaning as in section 2480
2307.91 of the Revised Code. 2481

Sec. 2315.21. (A) As used in this section: 2482

(1) "Tort action" means a civil action for damages for injury 2483
or loss to person or property. "Tort action" includes a product 2484

liability claim for damages for injury or loss to person or
property that is subject to sections 2307.71 to 2307.80 of the
Revised Code, but does not include a civil action for damages for
a breach of contract or another agreement between persons.

(2) "Trier of fact" means the jury or, in a nonjury action,
the court.

(3) "Home" has the same meaning as in section 3721.10 of the
Revised Code.

(4) "Employer" includes, but is not limited to, a parent,
subsidiary, affiliate, division, or department of the employer. If
the employer is an individual, the individual shall be considered
an employer under this section only if the subject of the tort
action is related to the individual's capacity as an employer.

(5) "Small employer" means an employer who employs not more
than one hundred persons on a full-time permanent basis, or, if
the employer is classified as being in the manufacturing sector by
the North American industrial classification system, "small
employer" means an employer who employs not more than five hundred
persons on a full-time permanent basis.

(B)(1) In a tort action that is tried to a jury and in which
a plaintiff makes a claim for compensatory damages and a claim for
punitive or exemplary damages, upon the motion of any party, the
trial of the tort action shall be bifurcated as follows:

(a) The initial stage of the trial shall relate only to the
presentation of evidence, and a determination by the jury, with
respect to whether the plaintiff is entitled to recover
compensatory damages for the injury or loss to person or property
from the defendant. During this stage, no party to the tort action
shall present, and the court shall not permit a party to present,
evidence that relates solely to the issue of whether the plaintiff
is entitled to recover punitive or exemplary damages for the

injury or loss to person or property from the defendant. 2516

(b) If the jury determines in the initial stage of the trial 2517
that the plaintiff is entitled to recover compensatory damages for 2518
the injury or loss to person or property from the defendant, 2519
evidence may be presented in the second stage of the trial, and a 2520
determination by that jury shall be made, with respect to whether 2521
the plaintiff additionally is entitled to recover punitive or 2522
exemplary damages for the injury or loss to person or property 2523
from the defendant. 2524

(2) In a tort action that is tried to a jury and in which a 2525
plaintiff makes a claim for both compensatory damages and punitive 2526
or exemplary damages, the court shall instruct the jury to return, 2527
and the jury shall return, a general verdict and, if that verdict 2528
is in favor of the plaintiff, answers to an interrogatory that 2529
specifies the total compensatory damages recoverable by the 2530
plaintiff from each defendant. 2531

(3) In a tort action that is tried to a court and in which a 2532
plaintiff makes a claim for both compensatory damages and punitive 2533
or exemplary damages, the court shall make its determination with 2534
respect to whether the plaintiff is entitled to recover 2535
compensatory damages for the injury or loss to person or property 2536
from the defendant and, if that determination is in favor of the 2537
plaintiff, shall make findings of fact that specify the total 2538
compensatory damages recoverable by the plaintiff from the 2539
defendant. 2540

(C) Subject to division ~~(D)~~(E) of this section, punitive or 2541
exemplary damages are not recoverable from a defendant in question 2542
in a tort action unless both of the following apply: 2543

(1) The actions or omissions of that defendant demonstrate 2544
malice, or aggravated or egregious fraud, ~~oppression, or insult,~~ 2545
or that defendant as principal or master knowingly authorized, 2546

participated in, or ratified actions or omissions of an agent or 2547
servant that so demonstrate. 2548

(2) The trier of fact has returned a verdict or has made a 2549
determination pursuant to division (B)(2) or (3) of this section 2550
of the total compensatory damages recoverable by the plaintiff in 2551
question has adduced proof of actual damages that resulted from 2552
actions or omissions as described in division (B)(1) of this 2553
section from that defendant. 2554

~~(C)~~(D)(1) In a tort action, the trier of fact shall determine 2555
the liability of any defendant for punitive or exemplary damages 2556
and the amount of those damages. 2557

(2) Except as provided in division (D)(6) of this section, 2558
all of the following apply regarding any award of punitive or 2559
exemplary damages in a tort action: 2560

(a) The court shall not enter judgment for punitive or 2561
exemplary damages in excess of two times the amount of the 2562
compensatory damages awarded to the plaintiff from that defendant, 2563
as determined pursuant to division (B)(2) or (3) of this section. 2564

(b) If the defendant is a small employer or individual, the 2565
court shall not enter judgment for punitive or exemplary damages 2566
in excess of the lesser of two times the amount of the 2567
compensatory damages awarded to the plaintiff from the defendant 2568
or ten percent of the employer's or individual's net worth when 2569
the tort was committed up to a maximum of three hundred fifty 2570
thousand dollars, as determined pursuant to division (B)(2) or (3) 2571
of this section. 2572

(c) Any attorneys fees awarded as a result of a claim for 2573
punitive or exemplary damages shall not be considered for purposes 2574
of determining the cap on punitive damages. 2575

(3) No award of prejudgment interest under division (C)(1) of 2576
section 1343.03 of the Revised Code shall include any prejudgment 2577

interest on punitive or exemplary damages found by the trier of fact.

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(4) In a tort action, the burden of proof shall be upon a plaintiff in question, by clear and convincing evidence, to establish that the plaintiff is entitled to recover punitive or exemplary damages.

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(5)(a) In any tort action, except as provided in division (D)(5)(b) or (6) of this section, punitive or exemplary damages shall not be awarded against a defendant if that defendant files with the court a certified judgment, judgment entries, or other evidence showing that punitive or exemplary damages have already been awarded and have been collected, in any state or federal court, against that defendant based on the same act or course of conduct that is alleged to have caused the injury or loss to person or property for which the plaintiff seeks compensatory damages and that the aggregate of those previous punitive or exemplary damage awards exceeds the maximum amount of punitive or exemplary damages that may be awarded under division (D)(2) of this section against that defendant in the tort action.

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(b) Notwithstanding division (D)(5)(a) of this section and except as provided in division (D)(6) of this section, punitive or exemplary damages may be awarded against a defendant in either of the following types of tort actions:

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(i) In subsequent tort actions involving the same act or course of conduct for which punitive or exemplary damages have already been awarded, if the court determines by clear and convincing evidence that the plaintiff will offer new and substantial evidence of previously undiscovered, additional behavior of a type described in division (C) of this section on the part of that defendant, other than the injury or loss for which the plaintiff seeks compensatory damages. In that case, the

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court shall make specific findings of fact in the record to 2609
support its conclusion. The court shall reduce the amount of any 2610
punitive or exemplary damages otherwise awardable pursuant to this 2611
section by the sum of the punitive or exemplary damages awards 2612
previously rendered against that defendant in any state or federal 2613
court. The court shall not inform the jury about the court's 2614
determination and action under division (D)(5)(b)(i) of this 2615
section. 2616

(ii) In subsequent tort actions involving the same act or 2617
course of conduct for which punitive or exemplary damages have 2618
already been awarded, if the court determines by clear and 2619
convincing evidence that the total amount of prior punitive or 2620
exemplary damages awards was totally insufficient to punish that 2621
defendant's behavior of a type described in division (C) of this 2622
section and to deter that defendant and others from similar 2623
behavior in the future. In that case, the court shall make 2624
specific findings of fact in the record to support its conclusion. 2625
The court shall reduce the amount of any punitive or exemplary 2626
damages otherwise awardable pursuant to this section by the sum of 2627
the punitive or exemplary damages awards previously rendered 2628
against that defendant in any state or federal court. The court 2629
shall not inform the jury about the court's determination and 2630
action under division (D)(5)(b)(ii) of this section. 2631

(6) Division (D)(2) of this section does not apply to a tort 2632
action where the alleged injury, death, or loss to person or 2633
property resulted from the defendant acting with one or more of 2634
the culpable mental states of purposely and knowingly as described 2635
in section 2901.22 of the Revised Code and when the defendant has 2636
been convicted of or pleaded guilty to a criminal offense that is 2637
a felony, that had as an element of the offense one or more of the 2638
culpable mental states of purposely and knowingly as described in 2639
that section, and that is the basis of the tort action. 2640

~~(D)~~(E) This section does not apply to tort actions against 2641
the state in the court of claims, including, but not limited to, 2642
tort actions against a state university or college that are 2643
subject to division (B)(1) of section 3345.40 of the Revised Code, 2644
to tort actions against political subdivisions of this state that 2645
are commenced under or are subject to Chapter 2744. of the Revised 2646
Code, or to the extent that another section of the Revised Code 2647
expressly provides any of the following: 2648

(1) Punitive or exemplary damages are recoverable from a 2649
defendant in question in a tort action on a basis other than that 2650
the actions or omissions of that defendant demonstrate malice, or 2651
aggravated or egregious fraud, ~~oppression, or insult,~~ or on a 2652
basis other than that the defendant in question as principal or 2653
master knowingly authorized, participated in, or ratified actions 2654
or omissions of an agent or servant that so demonstrate. 2655

(2) Punitive or exemplary damages are recoverable from a 2656
defendant in question in a tort action irrespective of whether the 2657
plaintiff in question has adduced proof of actual damages. 2658

(3) The burden of proof upon a plaintiff in question to 2659
recover punitive or exemplary damages from a defendant in question 2660
in a tort action is one other than clear and convincing evidence. 2661

(4) Punitive or exemplary damages are not recoverable from a 2662
defendant in question in a tort action. 2663

~~(E)~~(F) If the trier of fact is a jury, the court shall not 2664
instruct the jury with respect to the limits on punitive or 2665
exemplary damages pursuant to division (D) of this section, and 2666
neither counsel for any party or a witness shall inform the jury 2667
or potential jurors of those limits. 2668

(G) When determining the amount of an award of punitive or 2669
exemplary damages against either a home or a residential facility 2670
licensed under section 5123.19 of the Revised Code, the trier of 2671

fact shall consider all of the following: 2672

(1) The ability of the home or residential facility to pay 2673
the award of punitive or exemplary damages based on the home's or 2674
residential facility's assets, income, and net worth; 2675

(2) Whether the amount of punitive or exemplary damages is 2676
sufficient to deter future tortious conduct; 2677

(3) The financial ability of the home or residential 2678
facility, both currently and in the future, to provide 2679
accommodations, personal care services, and skilled nursing care. 2680

Sec. 2315.32. (A) Sections 2315.32 to 2315.36 of the Revised 2681
Code do not apply to ~~tort actions based on a product liability~~ 2682
claim described in section 4113.03 of the Revised Code. 2683

(B) The contributory fault of the plaintiff may be asserted 2684
as an affirmative defense to a ~~negligence claim or to a tort claim~~ 2685
~~other than a negligence claim~~, except that the contributory fault 2686
of the plaintiff may not be asserted as an affirmative defense to 2687
an intentional tort claim. 2688

Sec. 2315.33. The contributory fault of a person does not bar 2689
the person as plaintiff from recovering damages that have directly 2690
and proximately resulted from the tortious conduct of one or more 2691
other persons, if the contributory fault of the plaintiff was not 2692
greater than the combined tortious conduct of all other persons 2693
from whom the plaintiff seeks recovery in this action and of all 2694
other persons from whom the plaintiff does not seek recovery in 2695
this action. The court shall diminish any compensatory damages 2696
recoverable by the plaintiff by an amount that is proportionately 2697
equal to the percentage of tortious conduct of the plaintiff as 2698
determined pursuant to section 2315.34 of the Revised Code. ~~This~~ 2699
~~section does not apply to actions described in section 4113.03 of~~ 2700
~~the Revised Code.~~ 2701

Sec. 2315.34. If contributory fault is asserted and 2702
established as an affirmative defense to a ~~negligence~~ tort claim, 2703
the court in a nonjury action shall make findings of fact, and the 2704
jury in a jury action shall return a general verdict accompanied 2705
by answers to interrogatories, that shall specify the following: 2706

(A) The total amount of the compensatory damages that would 2707
have been recoverable on that ~~negligence~~ tort claim but for the 2708
tortious conduct of the plaintiff; 2709

(B) The portion of the compensatory damages specified under 2710
division (A) of this section that represents economic loss; 2711

(C) The portion of the compensatory damages specified under 2712
division (A) of this section that represents noneconomic loss; 2713

(D) The percentage of tortious conduct attributable to all 2714
persons as determined pursuant to section 2307.23 of the Revised 2715
Code. 2716

Sec. 2315.36. If contributory fault is asserted as an 2717
affirmative defense to a ~~negligence~~ tort claim, if it is 2718
determined that the plaintiff was contributorily at fault and that 2719
contributory fault was a direct and proximate cause of the injury, 2720
death, or loss to person or property that is the subject of the 2721
tort action, and if the plaintiff is entitled to recover 2722
compensatory damages pursuant to section 2315.33 of the Revised 2723
Code from more than one party, after it makes findings of fact or 2724
after the jury returns its general verdict accompanied by answers 2725
to interrogatories as described in section 2315.34 of the Revised 2726
Code, the court shall enter a judgment that is in favor of the 2727
plaintiff and that imposes liability pursuant to section 2307.22 2728
of the Revised Code. 2729

Sec. 2323.44. (A) There is hereby created the Ohio 2730

subrogation rights commission consisting of six voting members and 2731
seven nonvoting members. To be eligible for appointment as a 2732
voting member, a person shall be a current member of the general 2733
assembly. The president of the senate and the speaker of the house 2734
of representatives shall jointly appoint six members. The chairman 2735
of the senate committee to which bills pertaining to insurance are 2736
referred shall be a member of the commission. The chairman of the 2737
house committee to which bills pertaining to insurance are 2738
referred shall be a member of the commission. The chairman and the 2739
ranking minority member of the senate committee to which bills 2740
pertaining to civil justice are referred shall each be a member of 2741
the commission. The chairman and the ranking minority member of 2742
the house committee to which bills pertaining to civil justice are 2743
referred shall each be a member of the commission. Of the six 2744
members jointly appointed by the president of the senate and the 2745
speaker of the house of representative, one shall represent a 2746
health insuring company doing business in the state of Ohio, one 2747
shall represent a public employees union in Ohio, one shall 2748
represent the Ohio academy of trial lawyers, one shall represent a 2749
property and casualty insurance company doing business in Ohio, 2750
one shall represent the Ohio state bar association, and one shall 2751
represent a sickness and accident insurer doing business in Ohio, 2752
and all shall have expertise in insurance law, including 2753
subrogation rights. A member of the Ohio judicial conference who 2754
is an elected or appointed judge shall be a member of the 2755
commission. 2756

(B) The commission shall do all of the following: 2757

(1) Investigate the problems posed by, and the issues 2758
surrounding, the N. Buckeye Educ. Council Group Health Benefits 2759
Plan v. Lawson (2004), 103 Ohio St. 3d 188 decision regarding 2760
subrogation; 2761

(2) Prepare a report of recommended legislative solutions to 2762

<u>the court decision referred to in division (B)(1) of this section;</u>	2763
<u>(3) Submit a report of its findings to the members of the</u>	2764
<u>general assembly not later than September 1, 2005.</u>	2765
<u>(C) Any vacancy in the membership of the commission shall be</u>	2766
<u>filled in the same manner in which the original appointment was</u>	2767
<u>made.</u>	2768
<u>(D) The chairpersons of the house and senate committees to</u>	2769
<u>which bills pertaining to insurance are referred shall jointly</u>	2770
<u>call the first meeting of the commission not later than May 1,</u>	2771
<u>2005. The first meeting shall be organizational, and the members</u>	2772
<u>of the commission shall determine the chairperson from among</u>	2773
<u>commission members by a majority vote.</u>	2774
<u>(E) The legislative service commission shall provide any</u>	2775
<u>technical, professional, and clerical employees that are necessary</u>	2776
<u>for the commission to perform its duties.</u>	2777
Sec. 2323.51. (A) As used in this section:	2778
(1) "Conduct" means any of the following:	2779
(a) The filing of a civil action, the assertion of a claim,	2780
defense, or other position in connection with a civil action, <u>the</u>	2781
<u>filing of a pleading, motion, or other paper in a civil action,</u>	2782
<u>including, but not limited to, a motion or paper filed for</u>	2783
<u>discovery purposes,</u> or the taking of any other action in	2784
connection with a civil action;	2785
(b) The filing by an inmate of a civil action or appeal	2786
against a government entity or employee, the assertion of a claim,	2787
defense or other position in connection with a civil action of	2788
that nature or the assertion of issues of law in an appeal of that	2789
nature, or the taking of any other action in connection with a	2790
civil action or appeal of that nature.	2791

(2) "Frivolous conduct" means either of the following:	2792
(a) Conduct of an inmate or other party to a civil action, of	2793
an inmate who has filed an appeal of the type described in	2794
division (A)(1)(b) of this section, or of the inmate's or other	2795
party's counsel of record that satisfies either <u>any</u> of the	2796
following:	2797
(i) It obviously serves merely to harass or maliciously	2798
injure another party to the civil action or appeal <u>or is for</u>	2799
<u>another improper purpose, including, but not limited to, causing</u>	2800
<u>unnecessary delay or a needless increase in the cost of</u>	2801
<u>litigation.</u>	2802
(ii) It is not warranted under existing law and, cannot be	2803
supported by a good faith argument for an extension, modification,	2804
or reversal of existing law, <u>or cannot be supported by a good</u>	2805
<u>faith argument for the establishment of new law.</u>	2806
<u>(iii) The conduct consists of allegations or other factual</u>	2807
<u>contentions that have no evidentiary support or, if specifically</u>	2808
<u>so identified, are not likely to have evidentiary support after a</u>	2809
<u>reasonable opportunity for further investigation or discovery.</u>	2810
<u>(iv) The conduct consists of denials or factual contentions</u>	2811
<u>that are not warranted by the evidence or, if specifically so</u>	2812
<u>identified, are not reasonably based on a lack of information or</u>	2813
<u>belief.</u>	2814
(b) An inmate's commencement of a civil action or appeal	2815
against a government entity or employee when any of the following	2816
applies:	2817
(i) The claim that is the basis of the civil action fails to	2818
state a claim or the issues of law that are the basis of the	2819
appeal fail to state any issues of law.	2820
(ii) It is clear that the inmate cannot prove material facts	2821

in support of the claim that is the basis of the civil action or 2822
in support of the issues of law that are the basis of the appeal. 2823

(iii) The claim that is the basis of the civil action is 2824
substantially similar to a claim in a previous civil action 2825
commenced by the inmate or the issues of law that are the basis of 2826
the appeal are substantially similar to issues of law raised in a 2827
previous appeal commenced by the inmate, in that the claim that is 2828
the basis of the current civil action or the issues of law that 2829
are the basis of the current appeal involve the same parties or 2830
arise from the same operative facts as the claim or issues of law 2831
in the previous civil action or appeal. 2832

(3) "Civil action or appeal against a government entity or 2833
employee," "inmate," "political subdivision," and "employee" have 2834
the same meanings as in section 2969.21 of the Revised Code. 2835

(4) "Reasonable attorney's fees" or "attorney's fees," when 2836
used in relation to a civil action or appeal against a government 2837
entity or employee, includes both of the following, as applicable: 2838

(a) The approximate amount of the compensation, and the 2839
fringe benefits, if any, of the attorney general, an assistant 2840
attorney general, or special counsel appointed by the attorney 2841
general that has been or will be paid by the state in connection 2842
with the legal services that were rendered by the attorney 2843
general, assistant attorney general, or special counsel in the 2844
civil action or appeal against the government entity or employee, 2845
including, but not limited to, a civil action or appeal commenced 2846
pro se by an inmate, and that were necessitated by frivolous 2847
conduct of an inmate represented by counsel of record, the counsel 2848
of record of an inmate, or a pro se inmate. 2849

(b) The approximate amount of the compensation, and the 2850
fringe benefits, if any, of a prosecuting attorney or other chief 2851
legal officer of a political subdivision, or an assistant to a 2852

chief legal officer of those natures, who has been or will be paid 2853
by a political subdivision in connection with the legal services 2854
that were rendered by the chief legal officer or assistant in the 2855
civil action or appeal against the government entity or employee, 2856
including, but not limited to, a civil action or appeal commenced 2857
pro se by an inmate, and that were necessitated by frivolous 2858
conduct of an inmate represented by counsel of record, the counsel 2859
of record of an inmate, or a pro se inmate. 2860

(5) "State" has the same meaning as in section 2743.01 of the 2861
Revised Code. 2862

(6) "State correctional institution" has the same meaning as 2863
in section 2967.01 of the Revised Code. 2864

(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of 2865
this section and except as otherwise provided in division 2866
(E)(2)(b) of section 101.15 or division (I)(2)(b) of section 2867
121.22 of the Revised Code, at any time ~~prior to the commencement~~ 2868
~~of the trial in a civil action or within twenty one days after the~~ 2869
~~entry of judgment in a civil action or at any time prior to the~~ 2870
~~hearing in an appeal of the type described in division (A)(1)(b)~~ 2871
~~of this section that is filed by an inmate or within twenty one~~ 2872
~~days after the entry of judgment in an appeal of that nature, the~~ 2873
~~court not more than thirty days after the entry of final judgment~~ 2874
in a civil action or appeal, any party adversely affected by 2875
frivolous conduct may file a motion for an award of court costs, 2876
reasonable attorney's fees, and other reasonable expenses incurred 2877
in connection with the civil action or appeal ~~to any party to the~~ 2878
~~civil action or appeal who was adversely affected by frivolous~~ 2879
~~conduct. The court may assess and make an award may be assessed to~~ 2880
any party to the civil action or appeal who was adversely affected 2881
by frivolous conduct, as provided in division (B)(4) of this 2882
section. 2883

(2) An award may be made pursuant to division (B)(1) of this section upon the motion of a party to a civil action or an appeal of the type described in that division or on the court's own initiative, but only after the court does all of the following:

(a) Sets a date for a hearing to be conducted in accordance with division (B)(2)(c) of this section, to determine whether particular conduct was frivolous, to determine, if the conduct was frivolous, whether any party was adversely affected by it, and to determine, if an award is to be made, the amount of that award;

(b) Gives notice of the date of the hearing described in division (B)(2)(a) of this section to each party or counsel of record who allegedly engaged in frivolous conduct and to each party who allegedly was adversely affected by frivolous conduct;

(c) Conducts the hearing described in division (B)(2)(a) of this section in accordance with this division, allows the parties and counsel of record involved to present any relevant evidence at the hearing, including evidence of the type described in division (B)(5) of this section, determines that the conduct involved was frivolous and that a party was adversely affected by it, and then determines the amount of the award to be made. If any party or counsel of record who allegedly engaged in or allegedly was adversely affected by frivolous conduct is confined in a state correctional institution or in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, the court, if practicable, may hold the hearing by telephone or, in the alternative, at the institution, jail, or workhouse in which the party or counsel is confined.

(3) The amount of an award made pursuant to division (B)(1) of this section that represents reasonable attorney's fees shall not exceed, and may be equal to or less than, whichever of the following is applicable:

(a) If the party is being represented on a contingent fee basis, an amount that corresponds to reasonable fees that would have been charged for legal services had the party been represented on an hourly fee basis or another basis other than a contingent fee basis;

(b) In all situations other than that described in division (B)(3)(a) of this section, the attorney's fees that were reasonably incurred by a party.

(4) An award made pursuant to division (B)(1) of this section may be made against a party, the party's counsel of record, or both.

(5)(a) In connection with the hearing described in division (B)(2)(a) of this section, each party who may be awarded reasonable attorney's fees and the party's counsel of record may submit to the court or be ordered by the court to submit to it, for consideration in determining the amount of the reasonable attorney's fees, an itemized list or other evidence of the legal services rendered, the time expended in rendering the services, and whichever of the following is applicable:

(i) If the party is being represented by that counsel on a contingent fee basis, the reasonable attorney's fees that would have been associated with those services had the party been represented by that counsel on an hourly fee basis or another basis other than a contingent fee basis;

(ii) In all situations other than those described in division (B)(5)(a)(i) of this section, the attorney's fees associated with those services.

(b) In connection with the hearing described in division (B)(2)(a) of this section, each party who may be awarded court costs and other reasonable expenses incurred in connection with the civil action or appeal may submit to the court or be ordered

by the court to submit to it, for consideration in determining the amount of the costs and expenses, an itemized list or other evidence of the costs and expenses that were incurred in connection with that action or appeal and that were necessitated by the frivolous conduct, including, but not limited to, expert witness fees and expenses associated with discovery.

(C) An award of reasonable attorney's fees under this section does not affect or determine the amount of or the manner of computation of attorney's fees as between an attorney and the attorney's client.

(D) This section does not affect or limit the application of any provision of the Rules of Civil Procedure, the Rules of Appellate Procedure, or another court rule or section of the Revised Code to the extent that the provision prohibits an award of court costs, attorney's fees, or other expenses incurred in connection with a particular civil action or appeal or authorizes an award of court costs, attorney's fees, or other expenses incurred in connection with a particular civil action or appeal in a specified manner, generally, or subject to limitations.

Sec. 2505.02. (A) As used in this section:

(1) "Substantial right" means a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect.

(2) "Special proceeding" means an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity.

(3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, ~~or~~ a prima-facie showing pursuant

to section 2307.85 or 2307.86 of the Revised Code, a prima-facie 2976
showing pursuant to section 2307.92 of the Revised Code, or a 2977
finding made pursuant to division (A)(3) of section 2307.93 of the 2978
Revised Code. 2979

(B) An order is a final order that may be reviewed, affirmed, 2980
modified, or reversed, with or without retrial, when it is one of 2981
the following: 2982

(1) An order that affects a substantial right in an action 2983
that in effect determines the action and prevents a judgment; 2984

(2) An order that affects a substantial right made in a 2985
special proceeding or upon a summary application in an action 2986
after judgment; 2987

(3) An order that vacates or sets aside a judgment or grants 2988
a new trial; 2989

(4) An order that grants or denies a provisional remedy and 2990
to which both of the following apply: 2991

(a) The order in effect determines the action with respect to 2992
the provisional remedy and prevents a judgment in the action in 2993
favor of the appealing party with respect to the provisional 2994
remedy. 2995

(b) The appealing party would not be afforded a meaningful or 2996
effective remedy by an appeal following final judgment as to all 2997
proceedings, issues, claims, and parties in the action. 2998

(5) An order that determines that an action may or may not be 2999
maintained as a class action; 3000

(6) An order determining the constitutionality of any changes 3001
to the Revised Code made by Am. Sub. S.B. 281 of the 124th general 3002
assembly, including the amendment of sections 1751.67, 2117.06, 3003
2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 3004
2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3005

3923.64, 3929.71, 4705.15, and 5111.018, and the enactment of 3006
sections 2305.113, 2323.41, 2323.43, and 2323.55 of the Revised 3007
Code or any changes made by Sub. S.B. 80 of the 125th general 3008
assembly, including the amendment of sections 2125.02, 2305.10, 3009
2305.131, 2315.18, 2315.19, and 2315.21 of the Revised Code. 3010

(C) When a court issues an order that vacates or sets aside a 3011
judgment or grants a new trial, the court, upon the request of 3012
either party, shall state in the order the grounds upon which the 3013
new trial is granted or the judgment vacated or set aside. 3014

(D) This section applies to and governs any action, including 3015
an appeal, that is pending in any court on July 22, 1998, and all 3016
claims filed or actions commenced on or after July 22, 1998, 3017
notwithstanding any provision of any prior statute or rule of law 3018
of this state. 3019

Sec. 3719.81. (A) A person may furnish another a sample of 3020
any drug of abuse, or of any drug or pharmaceutical preparation 3021
that would be hazardous to health or safety if used without the 3022
supervision of a licensed health professional authorized to 3023
prescribe drugs, if all of the following apply: 3024

(1) The sample is furnished by a manufacturer, manufacturer's 3025
representative, or wholesale dealer in pharmaceuticals to a 3026
licensed health professional authorized to prescribe drugs, or is 3027
furnished by such a professional to a patient for use as 3028
medication; 3029

(2) The drug is in the original container in which it was 3030
placed by the manufacturer, and the container is plainly marked as 3031
a sample; 3032

(3) Prior to its being furnished, the drug sample has been 3033
stored under the proper conditions to prevent its deterioration or 3034
contamination; 3035

(4) If the drug is of a type which deteriorates with time, 3036
the sample container is plainly marked with the date beyond which 3037
the drug sample is unsafe to use, and the date has not expired on 3038
the sample furnished. Compliance with the labeling requirements of 3039
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 3040
21 U.S.C.A. 301, as amended, shall be deemed compliance with this 3041
section. 3042

(5) The drug is distributed, stored, or discarded in such a 3043
way that the drug sample may not be acquired or used by any 3044
unauthorized person, or by any person, including a child, for whom 3045
it may present a health or safety hazard. 3046

(B) Division (A) of this section does not do any of the 3047
following: 3048

(1) Apply to or restrict the furnishing of any sample of a 3049
nonnarcotic substance if the substance may, under the "Federal 3050
Food, Drug, and Cosmetic Act" and under the laws of this state, 3051
otherwise be lawfully sold over the counter without a 3052
prescription; 3053

(2) Authorize a licensed health professional authorized to 3054
prescribe drugs who is a clinical nurse specialist, certified 3055
nurse-midwife, or certified nurse practitioner, ~~or advanced~~ 3056
~~practice nurse~~ to furnish a sample of a drug that is not a drug 3057
the nurse is authorized to prescribe; 3058

(3) Authorize an optometrist to furnish a sample of a drug 3059
that is not a drug the optometrist is authorized to prescribe. 3060

(C) The state board of pharmacy shall, in accordance with 3061
Chapter 119. of the Revised Code, adopt rules as necessary to give 3062
effect to this section. 3063

Sec. 4507.07. (A) The registrar of motor vehicles shall not 3064
grant the application of any minor under eighteen years of age for 3065

a probationary license, a restricted license, or a temporary 3066
instruction permit, unless the application is signed by one of the 3067
minor's parents, the minor's guardian, another person having 3068
custody of the applicant, or, if there is no parent or guardian, a 3069
responsible person who is willing to assume the obligation imposed 3070
under this section. 3071

At the time a minor under eighteen years of age submits an 3072
application for a license or permit at a driver's license 3073
examining station, the adult who signs the application shall 3074
present identification establishing that the adult is the 3075
individual whose signature appears on the application. The 3076
registrar shall prescribe, by rule, the types of identification 3077
that are suitable for the purposes of this paragraph. If the adult 3078
who signs the application does not provide identification as 3079
required by this paragraph, the application shall not be accepted. 3080

When a minor under eighteen years of age applies for a 3081
probationary license, a restricted license, or a temporary 3082
instruction permit, the registrar shall give the adult who signs 3083
the application notice of the potential liability that may be 3084
imputed to the adult pursuant to division (B) of this section and 3085
notice of how the adult may prevent any liability from being 3086
imputed to the adult pursuant to that division. 3087

(B) Any negligence, or willful or wanton misconduct, that is 3088
committed by a minor under eighteen years of age when driving a 3089
motor vehicle upon a highway shall be imputed to the person who 3090
has signed the application of the minor for a probationary 3091
license, restricted license, or temporary instruction permit, 3092
which person shall be jointly and severally liable with the minor 3093
for any damages caused by the negligence or the willful or wanton 3094
misconduct. This joint and several liability is not subject to 3095
section 2307.22, or 2315.36, ~~or 2315.46~~ of the Revised Code with 3096
respect to a ~~negligence~~ tort claim that otherwise is subject to 3097

that section. 3098

There shall be no imputed liability imposed under this 3099
division if a minor under eighteen years of age has proof of 3100
financial responsibility with respect to the operation of a motor 3101
vehicle owned by the minor or, if the minor is not the owner of a 3102
motor vehicle, with respect to the minor's operation of any motor 3103
vehicle, in the form and in the amounts required under Chapter 3104
4509. of the Revised Code. 3105

(C) Any person who has signed the application of a minor 3106
under eighteen years of age for a license or permit subsequently 3107
may surrender to the registrar the license or temporary 3108
instruction permit of the minor and request that the license or 3109
permit be canceled. The registrar then shall cancel the license or 3110
temporary instruction permit, and the person who signed the 3111
application of the minor shall be relieved from the liability 3112
imposed by division (B) of this section. 3113

(D) Any minor under eighteen years of age whose probationary 3114
license, restricted license, or temporary instruction permit is 3115
surrendered to the registrar by the person who signed the 3116
application for the license or permit and whose license or 3117
temporary instruction permit subsequently is canceled by the 3118
registrar may obtain a new license or temporary instruction permit 3119
without having to undergo the examinations otherwise required by 3120
sections 4507.11 and 4507.12 of the Revised Code and without 3121
having to tender the fee for that license or temporary instruction 3122
permit, if the minor is able to produce another parent, guardian, 3123
other person having custody of the minor, or other adult, and that 3124
adult is willing to assume the liability imposed under division 3125
(B) of this section. That adult shall comply with the procedures 3126
contained in division (A) of this section. 3127

Sec. 4513.263. (A) As used in this section and in section 3128

4513.99 of the Revised Code:	3129
(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.	3130 3131 3132 3133 3134 3135
(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.	3136 3137 3138 3139 3140
(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.	3141 3142 3143
(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.	3144 3145 3146
(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.	3147 3148 3149
<u>(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.</u>	3150 3151 3152 3153 3154 3155 3156
(B) No person shall do any of the following:	3157
(1) Operate an automobile on any street or highway unless	3158

that person is wearing all of the available elements of a properly
adjusted occupant restraining device, or operate a school bus that
has an occupant restraining device installed for use in its
operator's seat unless that person is wearing all of the available
elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless
each passenger in the automobile who is subject to the requirement
set forth in division (B)(3) of this section is wearing all of the
available elements of a properly adjusted occupant restraining
device;

(3) Occupy, as a passenger, a seating position on the front
seat of an automobile being operated on any street or highway
unless that person is wearing all of the available elements of a
properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all
factory-equipped occupant restraining devices in the taxicab are
maintained in usable form.

(C) Division (B)(3) of this section does not apply to a
person who is required by section 4511.81 of the Revised Code to
be secured in a child restraint device. Division (B)(1) of this
section does not apply to a person who is an employee of the
United States postal service or of a newspaper home delivery
service, during any period in which the person is engaged in the
operation of an automobile to deliver mail or newspapers to
addressees. Divisions (B)(1) and (3) of this section do not apply
to a person who has an affidavit signed by a physician licensed to
practice in this state under Chapter 4731. of the Revised Code or
a chiropractor licensed to practice in this state under Chapter
4734. of the Revised Code that states that the person has a
physical impairment that makes use of an occupant restraining
device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

(1) Eight per cent shall be deposited into the seat belt education fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish a seat belt education program.

(2) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.

(3) Two per cent shall be deposited into the Ohio medical transportation trust fund created by section 4766.05 of the Revised Code.

(4) Twenty-eight per cent shall be deposited into the trauma and emergency medical services fund, which is hereby created in

the state treasury, and shall be used by the department of public 3221
safety for the administration of the division of emergency medical 3222
services and the state board of emergency medical services. 3223

(5) Fifty-four per cent shall be deposited into the trauma 3224
and emergency medical services grants fund, which is hereby 3225
created in the state treasury, and shall be used by the state 3226
board of emergency medical services to make grants, in accordance 3227
with section 4765.07 of the Revised Code and rules the board 3228
adopts under section 4765.11 of the Revised Code. 3229

(F)(1) Subject to division (F)(2) of this section, the 3230
failure of a person to wear all of the available elements of a 3231
properly adjusted occupant restraining device in violation of 3232
division (B)(1) or (3) of this section or the failure of a person 3233
to ensure that each minor who is a passenger of an automobile 3234
being operated by ~~the~~ that person is wearing all of the available 3235
elements of ~~such a~~ properly adjusted occupant restraining device, 3236
in violation of division (B)(2) of this section, shall not be 3237
considered or used by the trier of fact in a tort action as 3238
evidence of negligence or contributory negligence, ~~shall not.~~ But, 3239
the trier of fact may determine based on evidence admitted 3240
consistent with the Ohio rules of evidence that the failure 3241
contributed to the harm alleged in the tort action and may 3242
diminish a recovery for of compensatory damages that represents 3243
noneconomic loss, as defined in section 2307.011 of the Revised 3244
Code, in any civil a tort action involving the person arising from 3245
the ownership, maintenance, or operation of an automobile; that 3246
could have been recovered but for the plaintiff's failure to wear 3247
all of the available elements of a properly adjusted occupant 3248
restraining device. Evidence of that failure shall not be used as 3249
a basis for a criminal prosecution of the person other than a 3250
prosecution for a violation of this section; and shall not be 3251
admissible as evidence in ~~any civil or~~ a criminal action involving 3252

the person other than a prosecution for a violation of this 3253
section. 3254

(2) If, at the time of an accident involving a passenger car 3255
equipped with occupant restraining devices, any occupant of the 3256
passenger car who sustained injury or death was not wearing an 3257
available occupant restraining device, was not wearing all of the 3258
available elements of such a device, or was not wearing such a 3259
device as properly adjusted, then, consistent with the Rules of 3260
Evidence, the fact that the occupant was not wearing the available 3261
occupant restraining device, was not wearing all of the available 3262
elements of such a device, or was not wearing such a device as 3263
properly adjusted is admissible in evidence in relation to any 3264
claim for relief in a tort action to the extent that the claim for 3265
relief satisfies all of the following: 3266

(a) It seeks to recover damages for injury or death to the 3267
occupant. 3268

(b) The defendant in question is the manufacturer, designer, 3269
distributor, or seller of the passenger car. 3270

(c) The claim for relief against the defendant in question is 3271
that the injury or death sustained by the occupant was enhanced or 3272
aggravated by some design defect in the passenger car or that the 3273
passenger car was not crashworthy. 3274

~~(3) As used in division (F)(2) of this section, "tort action" 3275
means a civil action for damages for injury, death, or loss to 3276
person or property. "Tort action" includes a product liability 3277
claim that is subject to sections 2307.71 to 2307.80 of the 3278
Revised Code, but does not include a civil action for damages for 3279
a breach of a contract or another agreement between persons. 3280~~

(G)(1) Whoever violates division (B)(1) of this section shall 3281
be fined thirty dollars. 3282

(2) Whoever violates division (B)(3) of this section shall be 3283

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fined twenty dollars.

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(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.

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Sec. 4713.02. (A) There is hereby created the state board of cosmetology, consisting of all of the following members appointed by the governor, with the advice and consent of the senate:

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(1) One person holding a current, valid cosmetologist, managing cosmetologist, or cosmetology instructor license at the time of appointment;

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(2) Two persons holding current, valid managing cosmetologist licenses and actively engaged in managing beauty salons at the time of appointment;

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(3) One person who holds a current, valid independent contractor license at the time of appointment or the owner or manager of a licensed salon in which at least one person holding a current, valid independent contractor license practices a branch of cosmetology;

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(4) One person who represents individuals who teach the theory and practice of a branch of cosmetology at a vocational school;

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(5) One owner of a licensed school of cosmetology;

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(6) One owner of at least five licensed salons;

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(7) One person who is either ~~an advanced practice nurse approved under section 4723.55 of the Revised Code,~~ a certified nurse practitioner or clinical nurse specialist holding a

certificate of authority issued under ~~section 4723.41~~ Chapter 3313
4723. of the Revised Code, or a physician authorized under Chapter 3314
4731. of the Revised Code to practice medicine and surgery or 3315
osteopathic medicine and surgery; 3316

(8) One person representing the general public. 3317

(B) The superintendent of public instruction shall nominate 3318
three persons for the governor to choose from when making an 3319
appointment under division (A)(4) of this section. 3320

(C) All members shall be at least twenty-five years of age, 3321
residents of the state, and citizens of the United States. No more 3322
than two members, at any time, shall be graduates of the same 3323
school of cosmetology. 3324

Except for the initial members appointed under divisions 3325
(A)(3) and (4) of this section, terms of office are for five 3326
years. The term of the initial member appointed under division 3327
(A)(3) of this section shall be three years. The term of the 3328
initial member appointed under division (A)(4) of this section 3329
shall be four years. Terms shall commence on the first day of 3330
November and end on the thirty-first day of October. Each member 3331
shall hold office from the date of appointment until the end of 3332
the term for which appointed. In case of a vacancy occurring on 3333
the board, the governor shall, in the same manner prescribed for 3334
the regular appointment to the board, fill the vacancy by 3335
appointing a member. Any member appointed to fill a vacancy 3336
occurring prior to the expiration of the term for which the 3337
member's predecessor was appointed shall hold office for the 3338
remainder of such term. Any member shall continue in office 3339
subsequent to the expiration date of the member's term until the 3340
member's successor takes office, or until a period of sixty days 3341
has elapsed, whichever occurs first. Before entering upon the 3342
discharge of the duties of the office of member, each member shall 3343
take, and file with the secretary of state, the oath of office 3344

required by Section 7 of Article XV, Ohio Constitution. 3345

The members of the board shall receive an amount fixed 3346
pursuant to Chapter 124. of the Revised Code per diem for every 3347
meeting of the board which they attend, together with their 3348
necessary expenses, and mileage for each mile necessarily 3349
traveled. 3350

The members of the board shall annually elect, from among 3351
their number, a chairperson. 3352

The board shall prescribe the duties of its officers and 3353
establish an office at Columbus, Ohio. The board shall keep all 3354
records and files at the office and have the records and files at 3355
all reasonable hours open to public inspection. The board also 3356
shall adopt a seal. 3357

Sec. 4715.42. (A)(1) As used in this section, "indigent and 3358
uninsured person" and "operation" have the same meanings as in 3359
section 2305.234 of the Revised Code. 3360

(2) For the purposes of this section, a person shall be 3361
considered retired from practice if the person's license has been 3362
surrendered or allowed to expire with the intention of ceasing to 3363
practice as a dentist or dental hygienist for remuneration. 3364

(B) The Within thirty days after receiving an application for 3365
a volunteer's certificate that includes all of the items listed in 3366
divisions (C)(1), (2), and (3) of this section, the state dental 3367
board ~~may~~ shall issue, without examination, a volunteer's 3368
certificate to a person who is retired from practice so that the 3369
person may provide dental services to indigent and uninsured 3370
persons. 3371

(C) An application for a volunteer's certificate shall 3372
include all of the following: 3373

(1) A copy of the applicant's degree from dental college or 3374

dental hygiene school. 3375

(2) One of the following, as applicable: 3376

(a) A copy of the applicant's most recent license to practice 3377
dentistry or dental hygiene issued by a jurisdiction in the United 3378
States that licenses persons to practice dentistry or dental 3379
hygiene. 3380

(b) A copy of the applicant's most recent license equivalent 3381
to a license to practice dentistry or dental hygiene in one or 3382
more branches of the United States armed services that the United 3383
States government issued. 3384

(3) Evidence of one of the following, as applicable: 3385

(a) The applicant has maintained for at least ten years prior 3386
to retirement full licensure in good standing in any jurisdiction 3387
in the United States that licenses persons to practice dentistry 3388
or dental hygiene. 3389

(b) The applicant has practiced as a dentist or dental 3390
hygienist in good standing for at least ten years prior to 3391
retirement in one or more branches of the United States armed 3392
services. 3393

~~(4) A notarized statement from the applicant, on a form 3394
prescribed by the board, that the applicant will not accept any 3395
form of remuneration for any dental services rendered while in 3396
possession of a volunteer's certificate. 3397~~

(D) The holder of a volunteer's certificate may provide 3398
dental services only to indigent and uninsured persons. The holder 3399
shall not accept any form of remuneration for providing dental 3400
services while in possession of the certificate. Except in a 3401
dental emergency, the holder shall not perform any operation. The 3402
board may revoke a volunteer's certificate on receiving proof 3403
satisfactory to the board that the holder has engaged in practice 3404

in this state outside the scope of the holder's certificate or
that there are grounds for action against the person under section
4715.30 of the Revised Code.

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(E)(1) A volunteer's certificate shall be valid for a period
of three years, and may be renewed upon the application of the
holder, unless the certificate was previously revoked under
division (D) of this section. The board shall maintain a register
of all persons who hold volunteer's certificates. The board shall
not charge a fee for issuing or renewing a certificate pursuant to
this section.

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(2) To be eligible for renewal of a volunteer's certificate,
the holder of the certificate shall certify to the board
completion of sixty hours of continuing dental education that
meets the requirements of section 4715.141 of the Revised Code and
the rules adopted under that section, or completion of eighteen
hours of continuing dental hygiene education that meets the
requirements of section 4715.25 of the Revised Code and the rules
adopted under that section, as the case may be. The board may not
renew a certificate if the holder has not complied with the
appropriate continuing education requirements. Any entity for
which the holder provides dental services may pay for or reimburse
the holder for any costs incurred in obtaining the required
continuing education credits.

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(3) The board shall issue to each person who qualifies under
this section for a volunteer's certificate a wallet certificate
and a wall certificate that state that the certificate holder is
authorized to provide dental services pursuant to the laws of this
state. The holder shall keep the wallet certificate on the
holder's person while providing dental services and shall display
the wall certificate prominently at the location where the holder
primarily practices.

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(4) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions in section 2305.234 of the Revised Code.

(F) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.

(G) Within ninety days after the effective date of this amendment, the state dental board shall make available through the board's website the application form for a volunteer's certificate under this section, a description of the application process, and a list of all items that are required by division (C) of this section to be submitted with the application.

Sec. 4723.01. As used in this chapter:

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

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

(1) Identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen;

(2) Executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions;

(3) Assessing health status for the purpose of providing nursing care;

(4) Providing health counseling and health teaching;

(5) Administering medications, treatments, and executing regimens authorized by an individual who is authorized to practice

in this state and is acting within the course of the individual's professional practice; 3465
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(6) Teaching, administering, supervising, delegating, and evaluating nursing practice. 3467
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(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities. 3469
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(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. 3471
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(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. 3475
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(F) "The practice of nursing as a licensed practical nurse" means providing to individuals and groups nursing care requiring the application of basic knowledge of the biological, physical, behavioral, social, and nursing sciences at the direction of a licensed physician, dentist, podiatrist, optometrist, chiropractor, or registered nurse. Such nursing care includes: 3478
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(1) Observation, patient teaching, and care in a diversity of health care settings; 3484
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(2) Contributions to the planning, implementation, and evaluation of nursing; 3486
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(3) Administration of medications and treatments authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, except that administration of intravenous therapy shall be performed only in accordance with section 4723.17 or 4723.171 of the Revised Code. Medications may be administered by a licensed practical nurse upon proof of completion of a course in medication 3488
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administration approved by the board of nursing. 3495

(4) Administration to an adult of intravenous therapy 3496
authorized by an individual who is authorized to practice in this 3497
state and is acting within the course of the individual's 3498
professional practice, on the condition that the licensed 3499
practical nurse is authorized under section 4723.17 or 4723.171 of 3500
the Revised Code to perform intravenous therapy and performs 3501
intravenous therapy only in accordance with those sections. 3502

(G) "Certified registered nurse anesthetist" means a 3503
registered nurse who holds a valid certificate of authority issued 3504
under this chapter that authorizes the practice of nursing as a 3505
certified registered nurse anesthetist in accordance with section 3506
4723.43 of the Revised Code and rules adopted by the board of 3507
nursing. 3508

(H) "Clinical nurse specialist" means a registered nurse who 3509
holds a valid certificate of authority issued under this chapter 3510
that authorizes the practice of nursing as a clinical nurse 3511
specialist in accordance with section 4723.43 of the Revised Code 3512
and rules adopted by the board of nursing. 3513

(I) "Certified nurse-midwife" means a registered nurse who 3514
holds a valid certificate of authority issued under this chapter 3515
that authorizes the practice of nursing as a certified 3516
nurse-midwife in accordance with section 4723.43 of the Revised 3517
Code and rules adopted by the board of nursing. 3518

(J) "Certified nurse practitioner" means a registered nurse 3519
who holds a valid certificate of authority issued under this 3520
chapter that authorizes the practice of nursing as a certified 3521
nurse practitioner in accordance with section 4723.43 of the 3522
Revised Code and rules adopted by the board of nursing. 3523

(K) "Physician" means an individual authorized under Chapter 3524
4731. of the Revised Code to practice medicine and surgery or 3525

osteopathic medicine and surgery. 3526

(L) "Collaboration" or "collaborating" means the following: 3527

(1) In the case of a clinical nurse specialist, except as 3528
provided in division (L)(3) of this section, or a certified nurse 3529
practitioner, that one or more podiatrists acting within the scope 3530
of practice of podiatry in accordance with section 4731.51 of the 3531
Revised Code and with whom the nurse has entered into a standard 3532
care arrangement or one or more physicians with whom the nurse has 3533
entered into a standard care arrangement are continuously 3534
available to communicate with the clinical nurse specialist or 3535
certified nurse practitioner either in person or by radio, 3536
telephone, or other form of telecommunication; 3537

(2) In the case of a certified nurse-midwife, that one or 3538
more physicians with whom the certified nurse-midwife has entered 3539
into a standard care arrangement are continuously available to 3540
communicate with the certified nurse-midwife either in person or 3541
by radio, telephone, or other form of telecommunication; 3542

(3) In the case of a clinical nurse specialist who practices 3543
the nursing specialty of mental health or psychiatric mental 3544
health without being authorized to prescribe drugs and therapeutic 3545
devices, that one or more physicians are continuously available to 3546
communicate with the nurse either in person or by radio, 3547
telephone, or other form of telecommunication. 3548

(M) "Supervision," as it pertains to a certified registered 3549
nurse anesthetist, means that the certified registered nurse 3550
anesthetist is under the direction of a podiatrist acting within 3551
the podiatrist's scope of practice in accordance with section 3552
4731.51 of the Revised Code, a dentist acting within the dentist's 3553
scope of practice in accordance with Chapter 4715. of the Revised 3554
Code, or a physician, and, when administering anesthesia, the 3555
certified registered nurse anesthetist is in the immediate 3556

presence of the podiatrist, dentist, or physician. 3557

(N) "Standard care arrangement," ~~except as it pertains to an~~ 3558
~~advanced practice nurse,~~ means a written, formal guide for 3559
planning and evaluating a patient's health care that is developed 3560
by one or more collaborating physicians or podiatrists and a 3561
clinical nurse specialist, certified nurse-midwife, or certified 3562
nurse practitioner and meets the requirements of section 4723.431 3563
of the Revised Code. 3564

(O) "Advanced practice nurse," ~~until three years and eight~~ 3565
~~months after May 17, 2000,~~ means a ~~registered nurse who is~~ 3566
~~approved by the board of nursing under section 4723.55 of the~~ 3567
~~Revised Code to practice as an advanced practice nurse~~ certified 3568
registered nurse anesthetist, clinical nurse specialist, certified 3569
nurse-midwife, or certified nurse practitioner. 3570

(P) "Dialysis care" means the care and procedures that a 3571
dialysis technician is authorized to provide and perform, as 3572
specified in section 4723.72 of the Revised Code. 3573

(Q) "Dialysis technician" means an individual who holds a 3574
current, valid certificate or temporary certificate issued under 3575
this chapter that authorizes the individual to practice as a 3576
dialysis technician in accordance with section 4723.72 of the 3577
Revised Code. 3578

(R) "Certified community health worker" means an individual 3579
who holds a current, valid certificate as a community health 3580
worker issued by the board of nursing under section 4723.85 of the 3581
Revised Code. 3582

Sec. 4723.03. (A) No person shall engage in the practice of 3583
nursing as a registered nurse, represent the person as being a 3584
registered nurse, or use the title "registered nurse," the 3585
initials "R.N.," or any other title implying that the person is a 3586

registered nurse, for a fee, salary, or other consideration, or as 3587
a volunteer, without holding a current, valid license as a 3588
registered nurse under this chapter. 3589

(B) No person shall engage in the practice of nursing as a 3590
licensed practical nurse, represent the person as being a licensed 3591
practical nurse, or use the title "licensed practical nurse," the 3592
initials "L.P.N.," or any other title implying that the person is 3593
a licensed practical nurse, for a fee, salary, or other 3594
consideration, or as a volunteer, without holding a current, valid 3595
license as a practical nurse under this chapter. 3596

(C) No person shall use the titles or initials "graduate 3597
nurse," "G.N.," "professional nurse," "P.N.," "graduate practical 3598
nurse," "G.P.N.," "practical nurse," "P.N.," "trained nurse," 3599
"T.N.," or any other statement, title, or initials that would 3600
imply or represent to the public that the person is authorized to 3601
practice nursing in this state, except as follows: 3602

(1) A person licensed under this chapter to practice nursing 3603
as a registered nurse may use that title and the initials "R.N.;" 3604

(2) A person licensed under this chapter to practice nursing 3605
as a licensed practical nurse may use that title and the initials 3606
"L.P.N.;" 3607

(3) A person authorized under this chapter to practice 3608
nursing as a certified registered nurse anesthetist may use that 3609
title, the initials "C.R.N.A." or "N.A.," and any other title or 3610
initials approved by the board of nursing; 3611

(4) A person authorized under this chapter to practice 3612
nursing as a clinical nurse specialist may use that title, the 3613
initials "C.N.S.," and any other title or initials approved by the 3614
board; 3615

(5) A person authorized under this chapter to practice 3616

nursing as a certified nurse-midwife may use that title, the 3617
initials "C.N.M.," and any other title or initials approved by the 3618
board; 3619

(6) A person authorized under this chapter to practice 3620
nursing as a certified nurse practitioner may use that title, the 3621
initials "C.N.P.," and any other title or initials approved by the 3622
board; 3623

(7) A person authorized under this chapter to practice as a 3624
certified registered nurse anesthetist, clinical nurse specialist, 3625
certified nurse-midwife, or certified nurse practitioner may use 3626
the title "advanced practice nurse" or the initials "A.P.N." 3627

(D) No person shall employ a person not licensed as a 3628
registered nurse under this chapter to engage in the practice of 3629
nursing as a registered nurse. No person shall employ a person not 3630
licensed as a practical nurse under this chapter to engage in the 3631
practice of nursing as a licensed practical nurse. 3632

(E) No person shall sell or fraudulently obtain or furnish 3633
any nursing diploma, license, certificate, renewal, or record, or 3634
aid or abet such acts. 3635

Sec. 4723.28. (A) The board of nursing, by a vote of a 3636
quorum, may revoke or may refuse to grant a nursing license, 3637
certificate of authority, or dialysis technician certificate to a 3638
person found by the board to have committed fraud in passing an 3639
examination required to obtain the license, certificate of 3640
authority, or dialysis technician certificate or to have committed 3641
fraud, misrepresentation, or deception in applying for or securing 3642
any nursing license, certificate of authority, or dialysis 3643
technician certificate issued by the board. 3644

(B) Subject to division (N) of this section, the board of 3645
nursing, by a vote of a quorum, may impose one or more of the 3646

following sanctions: deny, revoke, suspend, or place restrictions 3647
on any nursing license, certificate of authority, or dialysis 3648
technician certificate issued by the board; reprimand or otherwise 3649
discipline a holder of a nursing license, certificate of 3650
authority, or dialysis technician certificate; or impose a fine of 3651
not more than five hundred dollars per violation. The sanctions 3652
may be imposed for any of the following: 3653

(1) Denial, revocation, suspension, or restriction of 3654
authority to practice a health care occupation, including nursing 3655
or practice as a dialysis technician, for any reason other than a 3656
failure to renew, in Ohio or another state or jurisdiction; 3657

(2) Engaging in the practice of nursing or engaging in 3658
practice as a dialysis technician, having failed to renew a 3659
nursing license or dialysis technician certificate issued under 3660
this chapter, or while a nursing license or dialysis technician 3661
certificate is under suspension; 3662

(3) Conviction of, a plea of guilty to, a judicial finding of 3663
guilt of, a judicial finding of guilt resulting from a plea of no 3664
contest to, or a judicial finding of eligibility for intervention 3665
in lieu of conviction for, a misdemeanor committed in the course 3666
of practice; 3667

(4) Conviction of, a plea of guilty to, a judicial finding of 3668
guilt of, a judicial finding of guilt resulting from a plea of no 3669
contest to, or a judicial finding of eligibility for intervention 3670
in lieu of conviction for, any felony or of any crime involving 3671
gross immorality or moral turpitude; 3672

(5) Selling, giving away, or administering drugs or 3673
therapeutic devices for other than legal and legitimate 3674
therapeutic purposes; or conviction of, a plea of guilty to, a 3675
judicial finding of guilt of, a judicial finding of guilt 3676
resulting from a plea of no contest to, or a judicial finding of 3677

eligibility for intervention in lieu of conviction for, violating	3678
any municipal, state, county, or federal drug law;	3679
(6) Conviction of, a plea of guilty to, a judicial finding of	3680
guilt of, a judicial finding of guilt resulting from a plea of no	3681
contest to, or a judicial finding of eligibility for intervention	3682
in lieu of conviction for, an act in another jurisdiction that	3683
would constitute a felony or a crime of moral turpitude in Ohio;	3684
(7) Conviction of, a plea of guilty to, a judicial finding of	3685
guilt of, a judicial finding of guilt resulting from a plea of no	3686
contest to, or a judicial finding of eligibility for intervention	3687
in lieu of conviction for, an act in the course of practice in	3688
another jurisdiction that would constitute a misdemeanor in Ohio;	3689
(8) Self-administering or otherwise taking into the body any	3690
dangerous drug, as defined in section 4729.01 of the Revised Code,	3691
in any way not in accordance with a legal, valid prescription	3692
issued for that individual;	3693
(9) Habitual indulgence in the use of controlled substances,	3694
other habit-forming drugs, or alcohol or other chemical substances	3695
to an extent that impairs ability to practice;	3696
(10) Impairment of the ability to practice according to	3697
acceptable and prevailing standards of safe nursing care because	3698
of habitual or excessive use of drugs, alcohol, or other chemical	3699
substances that impair the ability to practice;	3700
(11) Impairment of the ability to practice according to	3701
acceptable and prevailing standards of safe nursing care because	3702
of a physical or mental disability;	3703
(12) Assaulting or causing harm to a patient or depriving a	3704
patient of the means to summon assistance;	3705
(13) Obtaining or attempting to obtain money or anything of	3706
value by intentional misrepresentation or material deception in	3707

the course of practice;	3708
(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	3709 3710 3711 3712 3713
(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;	3714 3715 3716
(16) Violation of this chapter or any rules adopted under it;	3717
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	3718 3719
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	3720 3721 3722
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	3723 3724
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	3725 3726 3727
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	3728 3729 3730
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	3731 3732 3733
(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	3734 3735 3736

(24) In the case of a certified registered nurse anesthetist, 3737
clinical nurse specialist, certified nurse-midwife, or certified 3738
nurse practitioner, ~~or advanced practice nurse~~, except as provided 3739
in division (M) of this section, either of the following: 3740

(a) Waiving the payment of all or any part of a deductible or 3741
copayment that a patient, pursuant to a health insurance or health 3742
care policy, contract, or plan that covers such nursing services, 3743
would otherwise be required to pay if the waiver is used as an 3744
enticement to a patient or group of patients to receive health 3745
care services from that provider; 3746

(b) Advertising that the nurse will waive the payment of all 3747
or any part of a deductible or copayment that a patient, pursuant 3748
to a health insurance or health care policy, contract, or plan 3749
that covers such nursing services, would otherwise be required to 3750
pay. 3751

(25) Failure to comply with the terms and conditions of 3752
participation in the chemical dependency monitoring program 3753
established under section 4723.35 of the Revised Code; 3754

(26) Failure to comply with the terms and conditions required 3755
under the practice intervention and improvement program 3756
established under section 4723.282 of the Revised Code; 3757

(27) In the case of a certified registered nurse anesthetist, 3758
clinical nurse specialist, certified nurse-midwife, or certified 3759
nurse practitioner: 3760

(a) Engaging in activities that exceed those permitted for 3761
the nurse's nursing specialty under section 4723.43 of the Revised 3762
Code; 3763

(b) Failure to meet the quality assurance standards 3764
established under section 4723.07 of the Revised Code. 3765

(28) In the case of a clinical nurse specialist, certified 3766

nurse-midwife, or certified nurse practitioner, failure to	3767
maintain a standard care arrangement in accordance with section	3768
4723.431 of the Revised Code or to practice in accordance with the	3769
standard care arrangement;	3770
(29) In the case of a clinical nurse specialist, certified	3771
nurse-midwife, or certified nurse practitioner who holds a	3772
certificate to prescribe issued under section 4723.48 of the	3773
Revised Code, failure to prescribe drugs and therapeutic devices	3774
in accordance with section 4723.481 of the Revised Code;	3775
(30) Prescribing any drug or device to perform or induce an	3776
abortion, or otherwise performing or inducing an abortion;	3777
(31) Failure to establish and maintain professional	3778
boundaries with a patient, as specified in rules adopted under	3779
section 4723.07 of the Revised Code;	3780
(32) Regardless of whether the contact or verbal behavior is	3781
consensual, engaging with a patient other than the spouse of the	3782
registered nurse, licensed practical nurse, or dialysis technician	3783
in any of the following:	3784
(a) Sexual contact, as defined in section 2907.01 of the	3785
Revised Code;	3786
(b) Verbal behavior that is sexually demeaning to the patient	3787
or may be reasonably interpreted by the patient as sexually	3788
demeaning.	3789
(33) Assisting suicide as defined in section 3795.01 of the	3790
Revised Code.	3791
(C) Disciplinary actions taken by the board under divisions	3792
(A) and (B) of this section shall be taken pursuant to an	3793
adjudication conducted under Chapter 119. of the Revised Code,	3794
except that in lieu of a hearing, the board may enter into a	3795
consent agreement with an individual to resolve an allegation of a	3796

violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

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

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

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

had been convicted of the act. 3829

If the board takes action on the basis of a conviction, plea, 3830
or a judicial finding as described in divisions (B)(3) to (7) of 3831
this section that is overturned on appeal, the registered nurse, 3832
licensed practical nurse, or dialysis technician may, on 3833
exhaustion of the appeal process, petition the board for 3834
reconsideration of its action. On receipt of the petition and 3835
supporting court documents, the board shall temporarily rescind 3836
its action. If the board determines that the decision on appeal 3837
was a decision on the merits, it shall permanently rescind its 3838
action. If the board determines that the decision on appeal was 3839
not a decision on the merits, it shall conduct an adjudication to 3840
determine whether the registered nurse, licensed practical nurse, 3841
or dialysis technician committed the act on which the original 3842
conviction, plea, or judicial finding was based. If the board 3843
determines on the basis of the adjudication that the registered 3844
nurse, licensed practical nurse, or dialysis technician committed 3845
such act, or if the registered nurse, licensed practical nurse, or 3846
dialysis technician does not request an adjudication, the board 3847
shall reinstate its action; otherwise, the board shall permanently 3848
rescind its action. 3849

Notwithstanding the provision of division (C)(2) of section 3850
2953.32 of the Revised Code specifying that if records pertaining 3851
to a criminal case are sealed under that section the proceedings 3852
in the case shall be deemed not to have occurred, sealing of the 3853
records of a conviction on which the board has based an action 3854
under this section shall have no effect on the board's action or 3855
any sanction imposed by the board under this section. 3856

The board shall not be required to seal, destroy, redact, or 3857
otherwise modify its records to reflect the court's sealing of 3858
conviction records. 3859

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

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

If the board finds that an individual is impaired, the board shall require the individual to submit to care, counseling, or treatment approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. The individual shall be afforded an opportunity to demonstrate to the board that the individual can begin or resume the individual's occupation in compliance with acceptable and prevailing standards of care under the provisions of the individual's authority to practice.

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

(H) The board shall investigate evidence that appears to show 3891
that any person has violated any provision of this chapter or any 3892
rule of the board. Any person may report to the board any 3893
information the person may have that appears to show a violation 3894
of any provision of this chapter or rule of the board. In the 3895
absence of bad faith, any person who reports such information or 3896
who testifies before the board in any adjudication conducted under 3897
Chapter 119. of the Revised Code shall not be liable for civil 3898
damages as a result of the report or testimony. 3899

(I) All of the following apply under this chapter with 3900
respect to the confidentiality of information: 3901

(1) Information received by the board pursuant to an 3902
investigation is confidential and not subject to discovery in any 3903
civil action, except that the board may disclose information to 3904
law enforcement officers and government entities investigating a 3905
registered nurse, licensed practical nurse, or dialysis technician 3906
or a person who may have engaged in the unauthorized practice of 3907
nursing. No law enforcement officer or government entity with 3908
knowledge of any information disclosed by the board pursuant to 3909
this division shall divulge the information to any other person or 3910
government entity except for the purpose of an adjudication by a 3911
court or licensing or registration board or officer to which the 3912
person to whom the information relates is a party. 3913

(2) If an investigation requires a review of patient records, 3914
the investigation and proceeding shall be conducted in such a 3915
manner as to protect patient confidentiality. 3916

(3) All adjudications and investigations of the board shall 3917
be considered civil actions for the purposes of section 2305.252 3918
of the Revised Code. 3919

(4) Any board activity that involves continued monitoring of 3920
an individual as part of or following any disciplinary action 3921

taken under this section shall be conducted in a manner that 3922
maintains the individual's confidentiality. Information received 3923
or maintained by the board with respect to the board's monitoring 3924
activities is confidential and not subject to discovery in any 3925
civil action. 3926

(J) Any action taken by the board under this section 3927
resulting in a suspension from practice shall be accompanied by a 3928
written statement of the conditions under which the person may be 3929
reinstated to practice. 3930

(K) When the board refuses to grant a license or certificate 3931
to an applicant, revokes a license or certificate, or refuses to 3932
reinstate a license or certificate, the board may specify that its 3933
action is permanent. An individual subject to permanent action 3934
taken by the board is forever ineligible to hold a license or 3935
certificate of the type that was refused or revoked and the board 3936
shall not accept from the individual an application for 3937
reinstatement of the license or certificate or for a new license 3938
or certificate. 3939

(L) No unilateral surrender of a nursing license, certificate 3940
of authority, or dialysis technician certificate issued under this 3941
chapter shall be effective unless accepted by majority vote of the 3942
board. No application for a nursing license, certificate of 3943
authority, or dialysis technician certificate issued under this 3944
chapter may be withdrawn without a majority vote of the board. The 3945
board's jurisdiction to take disciplinary action under this 3946
section is not removed or limited when an individual has a license 3947
or certificate classified as inactive or fails to renew a license 3948
or certificate. 3949

(M) Sanctions shall not be imposed under division (B)(24) of 3950
this section against any licensee who waives deductibles and 3951
copayments as follows: 3952

(1) In compliance with the health benefit plan that expressly 3953
allows such a practice. Waiver of the deductibles or copayments 3954
shall be made only with the full knowledge and consent of the plan 3955
purchaser, payer, and third-party administrator. Documentation of 3956
the consent shall be made available to the board upon request. 3957

(2) For professional services rendered to any other person 3958
licensed pursuant to this chapter to the extent allowed by this 3959
chapter and the rules of the board. 3960

(N)(1) Any person who enters a prelicensure nursing education 3961
program on or after June 1, 2003, and who subsequently applies 3962
under division (A) of section 4723.09 of the Revised Code for 3963
licensure to practice as a registered nurse or as a licensed 3964
practical nurse and any person who applies under division (B) of 3965
that section for license by endorsement to practice nursing as a 3966
registered nurse or as a licensed practical nurse shall submit a 3967
request to the bureau of criminal identification and investigation 3968
for the bureau to conduct a criminal records check of the 3969
applicant and to send the results to the board, in accordance with 3970
section 4723.09 of the Revised Code. 3971

The board shall refuse to grant a license to practice nursing 3972
as a registered nurse or as a licensed practical nurse under 3973
section 4723.09 of the Revised Code to a person who entered a 3974
prelicensure nursing education program on or after June 1, 2003, 3975
and applied under division (A) of section 4723.09 of the Revised 3976
Code for the license or a person who applied under division (B) of 3977
that section for the license, if the criminal records check 3978
performed in accordance with division (C) of that section 3979
indicates that the person has pleaded guilty to, been convicted 3980
of, or has had a judicial finding of guilt for violating section 3981
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 3982
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 3983
substantially similar law of another state, the United States, or 3984

another country. 3985

(2) Any person who enters a dialysis training program on or 3986
after June 1, 2003, and who subsequently applies for a certificate 3987
to practice as a dialysis technician shall submit a request to the 3988
bureau of criminal identification and investigation for the bureau 3989
to conduct a criminal records check of the applicant and to send 3990
the results to the board, in accordance with section 4723.75 of 3991
the Revised Code. 3992

The board shall refuse to issue a certificate to practice as 3993
a dialysis technician under section 4723.75 of the Revised Code to 3994
a person who entered a dialysis training program on or after June 3995
1, 2003, and whose criminal records check performed in accordance 3996
with division (C) of that section indicates that the person has 3997
pleaded guilty to, been convicted of, or has had a judicial 3998
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 3999
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 4000
2911.11 of the Revised Code or a substantially similar law of 4001
another state, the United States, or another country. 4002

Sec. 4723.43. A certified registered nurse anesthetist, 4003
clinical nurse specialist, certified nurse-midwife, or certified 4004
nurse practitioner may provide to individuals and groups nursing 4005
care that requires knowledge and skill obtained from advanced 4006
formal education and clinical experience. In this capacity as an 4007
advanced practice nurse, a certified nurse-midwife is subject to 4008
division (A) of this section, a certified registered nurse 4009
anesthetist is subject to division (B) of this section, a 4010
certified nurse practitioner is subject to division (C) of this 4011
section, and a clinical nurse specialist is subject to division 4012
(D) of this section. 4013

(A) A nurse authorized to practice as a certified 4014
nurse-midwife, in collaboration with one or more physicians, may 4015

provide the management of preventive services and those primary 4016
care services necessary to provide health care to women 4017
antepartally, intrapartally, postpartally, and gynecologically, 4018
consistent with the nurse's education and certification, and in 4019
accordance with rules adopted by the board. 4020

No certified nurse-midwife may perform version, deliver 4021
breech or face presentation, use forceps, do any obstetric 4022
operation, or treat any other abnormal condition, except in 4023
emergencies. Division (A) of this section does not prohibit a 4024
certified nurse-midwife from performing episiotomies or normal 4025
vaginal deliveries, or repairing vaginal tears. A certified 4026
nurse-midwife who holds a certificate to prescribe issued under 4027
section 4723.48 of the Revised Code may, in collaboration with one 4028
or more physicians, prescribe drugs and therapeutic devices in 4029
accordance with section 4723.481 of the Revised Code. 4030

(B) A nurse authorized to practice as a certified registered 4031
nurse anesthetist, with the supervision and in the immediate 4032
presence of a physician, podiatrist, or dentist, may administer 4033
anesthesia and perform anesthesia induction, maintenance, and 4034
emergence, and may perform with supervision preanesthetic 4035
preparation and evaluation, postanesthesia care, and clinical 4036
support functions, consistent with the nurse's education and 4037
certification, and in accordance with rules adopted by the board. 4038
A certified registered nurse anesthetist is not required to obtain 4039
a certificate to prescribe in order to provide the anesthesia care 4040
described in this division. 4041

The physician, podiatrist, or dentist supervising a certified 4042
registered nurse anesthetist must be actively engaged in practice 4043
in this state. When a certified registered nurse anesthetist is 4044
supervised by a podiatrist, the nurse's scope of practice is 4045
limited to the anesthesia procedures that the podiatrist has the 4046
authority under section 4731.51 of the Revised Code to perform. A 4047

certified registered nurse anesthetist may not administer general 4048
anesthesia under the supervision of a podiatrist in a podiatrist's 4049
office. When a certified registered nurse anesthetist is 4050
supervised by a dentist, the nurse's scope of practice is limited 4051
to the anesthesia procedures that the dentist has the authority 4052
under Chapter 4715. of the Revised Code to perform. 4053

(C) A nurse authorized to practice as a certified nurse 4054
practitioner, in collaboration with one or more physicians or 4055
podiatrists, may provide preventive and primary care services and 4056
evaluate and promote patient wellness within the nurse's nursing 4057
specialty, consistent with the nurse's education and 4058
certification, and in accordance with rules adopted by the board. 4059
A certified nurse practitioner who holds a certificate to 4060
prescribe issued under section 4723.48 of the Revised Code may, in 4061
collaboration with one or more physicians or podiatrists, 4062
prescribe drugs and therapeutic devices in accordance with section 4063
4723.481 of the Revised Code. 4064

When a certified nurse practitioner is collaborating with a 4065
podiatrist, the nurse's scope of practice is limited to the 4066
procedures that the podiatrist has the authority under section 4067
4731.51 of the Revised Code to perform. 4068

(D) A nurse authorized to practice as a clinical nurse 4069
specialist, in collaboration with one or more physicians or 4070
podiatrists, may provide and manage the care of individuals and 4071
groups with complex health problems and provide health care 4072
services that promote, improve, and manage health care within the 4073
nurse's nursing specialty, consistent with the nurse's education 4074
and in accordance with rules adopted by the board. A clinical 4075
nurse specialist who holds a certificate to prescribe issued under 4076
section 4723.48 of the Revised Code may, in collaboration with one 4077
or more physicians or podiatrists, prescribe drugs and therapeutic 4078
devices in accordance with section 4723.481 of the Revised Code. 4079

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

Sec. 4723.44. (A) No person shall do any of the following unless the person holds a current, valid certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issued by the board of nursing under this chapter:

(1) Engage in the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for a fee, salary, or other consideration, or as a volunteer;

(2) Represent the person as being a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(3) Use any title or initials implying that the person is a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(4) Represent the person as being an advanced practice nurse;

(5) Use any title or initials implying that the person is an advanced practice nurse.

(B) No person who is not certified by the national council on certification of nurse anesthetists of the American association of nurse anesthetists, the national council on recertification of nurse anesthetists of the American association of nurse anesthetists, or another national certifying organization approved by the board under section 4723.46 of the Revised Code shall use the title "certified registered nurse anesthetist" or the initials

"C.R.N.A.," or any other title or initial implying that the person
has been certified by the council or organization.

(C) No certified registered nurse anesthetist, clinical nurse
specialist, certified nurse-midwife, or certified nurse
practitioner shall do any of the following:

(1) Engage, for a fee, salary, or other consideration, or as
a volunteer, in the practice of a nursing specialty other than the
specialty designated on the nurse's current, valid certificate of
authority issued by the board under this chapter;

(2) Represent the person as being authorized to practice any
nursing specialty other than the specialty designated on the
current, valid certificate of authority;

(3) Use the title "certified registered nurse anesthetist" or
the initials "N.A." or "C.R.N.A.," the title "clinical nurse
specialist" or the initials "C.N.S.," the title "certified
nurse-midwife" or the initials "C.N.M.," the title "certified
nurse practitioner" or the initials "C.N.P.," the title "advanced
practice nurse" or the initials "A.P.N.," or any other title or
initials implying that the nurse is authorized to practice any
nursing specialty other than the specialty designated on the
nurse's current, valid certificate of authority;

(4) Enter into a standard care arrangement with a physician
or podiatrist whose practice is not the same as or similar to the
nurse's nursing specialty;

(5) Prescribe drugs or therapeutic devices unless the nurse
holds a current, valid certificate to prescribe issued under
section 4723.48 of the Revised Code;

(6) Prescribe drugs or therapeutic devices under a
certificate to prescribe in a manner that does not comply with
section 4723.481 of the Revised Code;

(7) Prescribe any drug or device to perform or induce an 4140
abortion, or otherwise Perform or induce an abortion. 4141

(D) No person shall knowingly employ a person to engage in 4142
the practice of nursing as a certified registered nurse 4143
anesthetist, clinical nurse specialist, certified nurse-midwife, 4144
or certified nurse practitioner unless the person so employed 4145
holds a current, valid certificate of authority to engage in that 4146
nursing specialty issued by the board under this chapter. 4147

(E) A certificate certified by the executive director of the 4148
board, under the official seal of the board, to the effect that it 4149
appears from the records that no certificate of authority to 4150
practice nursing as a certified registered nurse anesthetist, 4151
clinical nurse specialist, certified nurse-midwife, or certified 4152
nurse practitioner has been issued to any person specified 4153
therein, or that a certificate, if issued, has been revoked or 4154
suspended, shall be received as prima-facie evidence of the record 4155
in any court or before any officer of the state. 4156

Sec. 4723.48. (A) A clinical nurse specialist, certified 4157
nurse-midwife, or certified nurse practitioner seeking authority 4158
to prescribe drugs and therapeutic devices shall file with the 4159
board of nursing a written application for a certificate to 4160
prescribe. The board of nursing shall issue a certificate to 4161
prescribe to each applicant who meets the requirements specified 4162
in section 4723.482 or 4723.484 of the Revised Code. 4163

Except as provided in division (B) of this section, the 4164
initial certificate to prescribe that the board issues to an 4165
applicant shall be issued as an externship certificate. Under an 4166
externship certificate, the nurse may obtain experience in 4167
prescribing drugs and therapeutic devices by participating in an 4168
externship that evaluates the nurse's competence, knowledge, and 4169
skill in pharmacokinetic principles and their clinical application 4170

to the specialty being practiced. During the externship, the nurse
may prescribe drugs and therapeutic devices only when one or more
physicians are providing supervision in accordance with rules
adopted under section 4723.50 of the Revised Code.

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

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

Sec. 4723.482. (A) An applicant shall include with the
application submitted under section 4723.48 of the Revised Code
all of the following:

(1) Subject to section 4723.483 of the Revised Code, evidence
of holding a current, valid certificate of authority issued under
~~section 4723.41 of the Revised Code~~ this chapter to practice as a
clinical nurse specialist, certified nurse-midwife, or certified
nurse practitioner;

(2) Except for ~~an advanced practice nurse~~ a person who on ~~the~~
~~effective date of this section is~~ May 17, 2000, was approved ~~under~~
~~section 4723.56 of the Revised Code~~ to prescribe drugs and

therapeutic devices under section 4723.56 of the Revised Code, as 4201
that section existed on that date, evidence of successfully 4202
completing the instruction in advanced pharmacology and related 4203
topics specified in division (B) of this section; 4204

(3) The fee required by section 4723.08 of the Revised Code 4205
for a certificate to prescribe; 4206

(4) Any additional information the board requires pursuant to 4207
rules adopted under section 4723.50 of the Revised Code. 4208

(B) All of the following apply to the instruction required 4209
under division (A)(2) of this section: 4210

(1) The instruction must be obtained not longer than three 4211
years before the application for the certificate to prescribe is 4212
filed. 4213

(2) The instruction must be obtained through a course of 4214
study consisting of planned classroom and clinical study that is 4215
approved by the board of nursing in accordance with standards 4216
established in rules adopted under section 4723.50 of the Revised 4217
Code. 4218

(3) The content of the instruction must be specific to the 4219
applicant's nursing specialty and include all of the following: 4220

(a) A minimum of thirty contact hours of training in advanced 4221
pharmacology that includes pharmacokinetic principles and clinical 4222
application and the use of drugs and therapeutic devices in the 4223
prevention of illness and maintenance of health; 4224

(b) Training in the fiscal and ethical implications of 4225
prescribing drugs and therapeutic devices; 4226

(c) Training in the state and federal laws that apply to the 4227
authority to prescribe; 4228

(d) Any additional training required pursuant to rules 4229
adopted under section 4723.50 of the Revised Code. 4230

Sec. 4729.01. As used in this chapter:	4231
(A) "Pharmacy," except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted.	4232 4233 4234 4235
(B) "Practice of pharmacy" means providing pharmacist care requiring specialized knowledge, judgment, and skill derived from the principles of biological, chemical, behavioral, social, pharmaceutical, and clinical sciences. As used in this division, "pharmacist care" includes the following:	4236 4237 4238 4239 4240
(1) Interpreting prescriptions;	4241
(2) Compounding or dispensing drugs and dispensing drug therapy related devices;	4242 4243
(3) Counseling individuals with regard to their drug therapy, recommending drug therapy related devices, and assisting in the selection of drugs and appliances for treatment of common diseases and injuries and providing instruction in the proper use of the drugs and appliances;	4244 4245 4246 4247 4248
(4) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the drugs;	4249 4250 4251
(5) Performing drug utilization reviews with licensed health professionals authorized to prescribe drugs when the pharmacist determines that an individual with a prescription has a drug regimen that warrants additional discussion with the prescriber;	4252 4253 4254 4255
(6) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	4256 4257 4258
(7) Acting pursuant to a consult agreement with a physician	4259

authorized under Chapter 4731. of the Revised Code to practice 4260
medicine and surgery or osteopathic medicine and surgery, if an 4261
agreement has been established with the physician; 4262

(8) Administering the adult immunizations specified in 4263
section 4729.41 of the Revised Code, if the pharmacist has met the 4264
requirements of that section. 4265

(C) "Compounding" means the preparation, mixing, assembling, 4266
packaging, and labeling of one or more drugs in any of the 4267
following circumstances: 4268

(1) Pursuant to a prescription issued by a licensed health 4269
professional authorized to prescribe drugs; 4270

(2) Pursuant to the modification of a prescription made in 4271
accordance with a consult agreement; 4272

(3) As an incident to research, teaching activities, or 4273
chemical analysis; 4274

(4) In anticipation of prescription drug orders based on 4275
routine, regularly observed dispensing patterns. 4276

(D) "Consult agreement" means an agreement to manage an 4277
individual's drug therapy that has been entered into by a 4278
pharmacist and a physician authorized under Chapter 4731. of the 4279
Revised Code to practice medicine and surgery or osteopathic 4280
medicine and surgery. 4281

(E) "Drug" means: 4282

(1) Any article recognized in the United States pharmacopoeia 4283
and national formulary, or any supplement to them, intended for 4284
use in the diagnosis, cure, mitigation, treatment, or prevention 4285
of disease in humans or animals; 4286

(2) Any other article intended for use in the diagnosis, 4287
cure, mitigation, treatment, or prevention of disease in humans or 4288
animals; 4289

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	4290 4291
(4) Any article intended for use as a component of any article specified in division (C) <u>(E)</u> (1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.	4292 4293 4294 4295
(F) "Dangerous drug" means any of the following:	4296
(1) Any drug to which either of the following applies:	4297
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;	4298 4299 4300 4301 4302 4303 4304
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	4305 4306
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	4307 4308 4309
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.	4310 4311 4312
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	4313 4314
(H) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.	4315 4316 4317 4318
(I) "Licensed health professional authorized to prescribe	4319

drugs" or "prescriber" means an individual who is authorized by
law to prescribe drugs or dangerous drugs or drug therapy related
devices in the course of the individual's professional practice,
including only the following:

(1) A dentist licensed under Chapter 4715. of the Revised
Code;

~~(2) Until January 17, 2000, an advanced practice nurse
approved under section 4723.56 of the Revised Code to prescribe
drugs and therapeutic devices;~~

~~(3) A clinical nurse specialist, certified nurse-midwife, or
certified nurse practitioner who holds a certificate to prescribe
issued under section 4723.48 of the Revised Code;~~

~~(4)(3) An optometrist licensed under Chapter 4725. of the
Revised Code to practice optometry under a therapeutic
pharmaceutical agents certificate;~~

~~(5)(4) A physician authorized under Chapter 4731. of the
Revised Code to practice medicine and surgery, osteopathic
medicine and surgery, or podiatry;~~

~~(6)(5) A veterinarian licensed under Chapter 4741. of the
Revised Code.~~

(J) "Sale" and "sell" include delivery, transfer, barter,
exchange, or gift, or offer therefor, and each such transaction
made by any person, whether as principal proprietor, agent, or
employee.

(K) "Wholesale sale" and "sale at wholesale" mean any sale in
which the purpose of the purchaser is to resell the article
purchased or received by the purchaser.

(L) "Retail sale" and "sale at retail" mean any sale other
than a wholesale sale or sale at wholesale.

(M) "Retail seller" means any person that sells any dangerous

drug to consumers without assuming control over and responsibility 4350
for its administration. Mere advice or instructions regarding 4351
administration do not constitute control or establish 4352
responsibility. 4353

(N) "Price information" means the price charged for a 4354
prescription for a particular drug product and, in an easily 4355
understandable manner, all of the following: 4356

(1) The proprietary name of the drug product; 4357

(2) The established (generic) name of the drug product; 4358

(3) The strength of the drug product if the product contains 4359
a single active ingredient or if the drug product contains more 4360
than one active ingredient and a relevant strength can be 4361
associated with the product without indicating each active 4362
ingredient. The established name and quantity of each active 4363
ingredient are required if such a relevant strength cannot be so 4364
associated with a drug product containing more than one 4365
ingredient. 4366

(4) The dosage form; 4367

(5) The price charged for a specific quantity of the drug 4368
product. The stated price shall include all charges to the 4369
consumer, including, but not limited to, the cost of the drug 4370
product, professional fees, handling fees, if any, and a statement 4371
identifying professional services routinely furnished by the 4372
pharmacy. Any mailing fees and delivery fees may be stated 4373
separately without repetition. The information shall not be false 4374
or misleading. 4375

(O) "Wholesale distributor of dangerous drugs" means a person 4376
engaged in the sale of dangerous drugs at wholesale and includes 4377
any agent or employee of such a person authorized by the person to 4378
engage in the sale of dangerous drugs at wholesale. 4379

(P) "Manufacturer of dangerous drugs" means a person, other 4380
than a pharmacist, who manufactures dangerous drugs and who is 4381
engaged in the sale of those dangerous drugs within this state. 4382

(Q) "Terminal distributor of dangerous drugs" means a person 4383
who is engaged in the sale of dangerous drugs at retail, or any 4384
person, other than a wholesale distributor or a pharmacist, who 4385
has possession, custody, or control of dangerous drugs for any 4386
purpose other than for that person's own use and consumption, and 4387
includes pharmacies, hospitals, nursing homes, and laboratories 4388
and all other persons who procure dangerous drugs for sale or 4389
other distribution by or under the supervision of a pharmacist or 4390
licensed health professional authorized to prescribe drugs. 4391

(R) "Promote to the public" means disseminating a 4392
representation to the public in any manner or by any means, other 4393
than by labeling, for the purpose of inducing, or that is likely 4394
to induce, directly or indirectly, the purchase of a dangerous 4395
drug at retail. 4396

(S) "Person" includes any individual, partnership, 4397
association, limited liability company, or corporation, the state, 4398
any political subdivision of the state, and any district, 4399
department, or agency of the state or its political subdivisions. 4400

(T) "Finished dosage form" has the same meaning as in section 4401
3715.01 of the Revised Code. 4402

(U) "Generically equivalent drug" has the same meaning as in 4403
section 3715.01 of the Revised Code. 4404

(V) "Animal shelter" means a facility operated by a humane 4405
society or any society organized under Chapter 1717. of the 4406
Revised Code or a dog pound operated pursuant to Chapter 955. of 4407
the Revised Code. 4408

(W) "Food" has the same meaning as in section 3715.01 of the 4409

Revised Code. 4410

Sec. 4731.22. (A) The state medical board, by an affirmative 4411
vote of not fewer than six of its members, may revoke or may 4412
refuse to grant a certificate to a person found by the board to 4413
have committed fraud during the administration of the examination 4414
for a certificate to practice or to have committed fraud, 4415
misrepresentation, or deception in applying for or securing any 4416
certificate to practice or certificate of registration issued by 4417
the board. 4418

(B) The board, by an affirmative vote of not fewer than six 4419
members, shall, to the extent permitted by law, limit, revoke, or 4420
suspend an individual's certificate to practice, refuse to 4421
register an individual, refuse to reinstate a certificate, or 4422
reprimand or place on probation the holder of a certificate for 4423
one or more of the following reasons: 4424

(1) Permitting one's name or one's certificate to practice or 4425
certificate of registration to be used by a person, group, or 4426
corporation when the individual concerned is not actually 4427
directing the treatment given; 4428

(2) Failure to maintain minimal standards applicable to the 4429
selection or administration of drugs, or failure to employ 4430
acceptable scientific methods in the selection of drugs or other 4431
modalities for treatment of disease; 4432

(3) Selling, giving away, personally furnishing, prescribing, 4433
or administering drugs for other than legal and legitimate 4434
therapeutic purposes or a plea of guilty to, a judicial finding of 4435
guilt of, or a judicial finding of eligibility for intervention in 4436
lieu of conviction of, a violation of any federal or state law 4437
regulating the possession, distribution, or use of any drug; 4438

(4) Willfully betraying a professional confidence. 4439

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient

is established;	4472
(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	4473 4474 4475 4476
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	4477 4478 4479
(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	4480 4481 4482
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	4483 4484 4485
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	4486 4487 4488
(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	4489 4490 4491
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	4492 4493 4494
(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	4495 4496 4497
(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;	4498 4499
(16) Failure to pay license renewal fees specified in this chapter;	4500 4501

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual 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 an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, 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.

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate,

directly or indirectly, or assisting in or abetting the violation 4566
of, or conspiring to violate, any provisions of this chapter or 4567
any rule promulgated by the board. 4568

This division does not apply to a violation or attempted 4569
violation of, assisting in or abetting the violation of, or a 4570
conspiracy to violate, any provision of this chapter or any rule 4571
adopted by the board that would preclude the making of a report by 4572
a physician of an employee's use of a drug of abuse, or of a 4573
condition of an employee other than one involving the use of a 4574
drug of abuse, to the employer of the employee as described in 4575
division (B) of section 2305.33 of the Revised Code. Nothing in 4576
this division affects the immunity from civil liability conferred 4577
by that section upon a physician who makes either type of report 4578
in accordance with division (B) of that section. As used in this 4579
division, "employee," "employer," and "physician" have the same 4580
meanings as in section 2305.33 of the Revised Code. 4581

(21) The violation of any abortion rule adopted by the public 4582
health council pursuant to section 3701.341 of the Revised Code; 4583

(22) Any of the following actions taken by the agency 4584
responsible for regulating the practice of medicine and surgery, 4585
osteopathic medicine and surgery, podiatric medicine and surgery, 4586
or the limited branches of medicine in another jurisdiction, for 4587
any reason other than the nonpayment of fees: the limitation, 4588
revocation, or suspension of an individual's license to practice; 4589
acceptance of an individual's license surrender; denial of a 4590
license; refusal to renew or reinstate a license; imposition of 4591
probation; or issuance of an order of censure or other reprimand; 4592

(23) The violation of section 2919.12 of the Revised Code or 4593
the performance or inducement of an abortion upon a pregnant woman 4594
with actual knowledge that the conditions specified in division 4595
(B) of section 2317.56 of the Revised Code have not been satisfied 4596

or with a heedless indifference as to whether those conditions 4597
have been satisfied, unless an affirmative defense as specified in 4598
division (H)(2) of that section would apply in a civil action 4599
authorized by division (H)(1) of that section; 4600

(24) The revocation, suspension, restriction, reduction, or 4601
termination of clinical privileges by the United States department 4602
of defense or department of veterans affairs or the termination or 4603
suspension of a certificate of registration to prescribe drugs by 4604
the drug enforcement administration of the United States 4605
department of justice; 4606

(25) Termination or suspension from participation in the 4607
medicare or medicaid programs by the department of health and 4608
human services or other responsible agency for any act or acts 4609
that also would constitute a violation of division (B)(2), (3), 4610
(6), (8), or (19) of this section; 4611

(26) Impairment of ability to practice according to 4612
acceptable and prevailing standards of care because of habitual or 4613
excessive use or abuse of drugs, alcohol, or other substances that 4614
impair ability to practice. 4615

For the purposes of this division, any individual authorized 4616
to practice by this chapter accepts the privilege of practicing in 4617
this state subject to supervision by the board. By filing an 4618
application for or holding a certificate to practice under this 4619
chapter, an individual shall be deemed to have given consent to 4620
submit to a mental or physical examination when ordered to do so 4621
by the board in writing, and to have waived all objections to the 4622
admissibility of testimony or examination reports that constitute 4623
privileged communications. 4624

If it has reason to believe that any individual authorized to 4625
practice by this chapter or any applicant for certification to 4626
practice suffers such impairment, the board may compel the 4627

individual to submit to a mental or physical examination, or both. 4628
The expense of the examination is the responsibility of the 4629
individual compelled to be examined. Any mental or physical 4630
examination required under this division shall be undertaken by a 4631
treatment provider or physician who is qualified to conduct the 4632
examination and who is chosen by the board. 4633

Failure to submit to a mental or physical examination ordered 4634
by the board constitutes an admission of the allegations against 4635
the individual unless the failure is due to circumstances beyond 4636
the individual's control, and a default and final order may be 4637
entered without the taking of testimony or presentation of 4638
evidence. If the board determines that the individual's ability to 4639
practice is impaired, the board shall suspend the individual's 4640
certificate or deny the individual's application and shall require 4641
the individual, as a condition for initial, continued, reinstated, 4642
or renewed certification to practice, to submit to treatment. 4643

Before being eligible to apply for reinstatement of a 4644
certificate suspended under this division, the impaired 4645
practitioner shall demonstrate to the board the ability to resume 4646
practice in compliance with acceptable and prevailing standards of 4647
care under the provisions of the practitioner's certificate. The 4648
demonstration shall include, but shall not be limited to, the 4649
following: 4650

(a) Certification from a treatment provider approved under 4651
section 4731.25 of the Revised Code that the individual has 4652
successfully completed any required inpatient treatment; 4653

(b) Evidence of continuing full compliance with an aftercare 4654
contract or consent agreement; 4655

(c) Two written reports indicating that the individual's 4656
ability to practice has been assessed and that the individual has 4657
been found capable of practicing according to acceptable and 4658

prevailing standards of care. The reports shall be made by 4659
individuals or providers approved by the board for making the 4660
assessments and shall describe the basis for their determination. 4661

The board may reinstate a certificate suspended under this 4662
division after that demonstration and after the individual has 4663
entered into a written consent agreement. 4664

When the impaired practitioner resumes practice, the board 4665
shall require continued monitoring of the individual. The 4666
monitoring shall include, but not be limited to, compliance with 4667
the written consent agreement entered into before reinstatement or 4668
with conditions imposed by board order after a hearing, and, upon 4669
termination of the consent agreement, submission to the board for 4670
at least two years of annual written progress reports made under 4671
penalty of perjury stating whether the individual has maintained 4672
sobriety. 4673

(27) A second or subsequent violation of section 4731.66 or 4674
4731.69 of the Revised Code; 4675

(28) Except as provided in division (N) of this section: 4676

(a) Waiving the payment of all or any part of a deductible or 4677
copayment that a patient, pursuant to a health insurance or health 4678
care policy, contract, or plan that covers the individual's 4679
services, otherwise would be required to pay if the waiver is used 4680
as an enticement to a patient or group of patients to receive 4681
health care services from that individual; 4682

(b) Advertising that the individual will waive the payment of 4683
all or any part of a deductible or copayment that a patient, 4684
pursuant to a health insurance or health care policy, contract, or 4685
plan that covers the individual's services, otherwise would be 4686
required to pay. 4687

(29) Failure to use universal blood and body fluid 4688

precautions established by rules adopted under section 4731.051 of 4689
the Revised Code; 4690

~~(30) Failure of a collaborating physician to fulfill the 4691
responsibilities agreed to by the physician and an advanced 4692
practice nurse participating in a pilot program under section 4693
4723.52 of the Revised Code; 4694~~

~~(31)~~ Failure to provide notice to, and receive acknowledgment 4695
of the notice from, a patient when required by section 4731.143 of 4696
the Revised Code prior to providing nonemergency professional 4697
services, or failure to maintain that notice in the patient's 4698
file; 4699

~~(32)~~(31) Failure of a physician supervising a physician 4700
assistant to maintain supervision in accordance with the 4701
requirements of Chapter 4730. of the Revised Code and the rules 4702
adopted under that chapter; 4703

~~(33)~~(32) Failure of a physician or podiatrist to enter into a 4704
standard care arrangement with a clinical nurse specialist, 4705
certified nurse-midwife, or certified nurse practitioner with whom 4706
the physician or podiatrist is in collaboration pursuant to 4707
section 4731.27 of the Revised Code or failure to fulfill the 4708
responsibilities of collaboration after entering into a standard 4709
care arrangement; 4710

~~(34)~~(33) Failure to comply with the terms of a consult 4711
agreement entered into with a pharmacist pursuant to section 4712
4729.39 of the Revised Code; 4713

~~(35)~~(34) Failure to cooperate in an investigation conducted 4714
by the board under division (F) of this section, including failure 4715
to comply with a subpoena or order issued by the board or failure 4716
to answer truthfully a question presented by the board at a 4717
deposition or in written interrogatories, except that failure to 4718
cooperate with an investigation shall not constitute grounds for 4719

discipline under this section if a court of competent jurisdiction 4720
has issued an order that either quashes a subpoena or permits the 4721
individual to withhold the testimony or evidence in issue; 4722

~~(36)~~(35) Failure to supervise an acupuncturist in accordance 4723
with Chapter 4762. of the Revised Code and the board's rules for 4724
supervision of an acupuncturist; 4725

~~(37)~~(36) Failure to supervise an anesthesiologist assistant 4726
in accordance with Chapter 4760. of the Revised Code and the 4727
board's rules for supervision of an anesthesiologist assistant; 4728

~~(38)~~(37) Assisting suicide as defined in section 3795.01 of 4729
the Revised Code. 4730

(C) Disciplinary actions taken by the board under divisions 4731
(A) and (B) of this section shall be taken pursuant to an 4732
adjudication under Chapter 119. of the Revised Code, except that 4733
in lieu of an adjudication, the board may enter into a consent 4734
agreement with an individual to resolve an allegation of a 4735
violation of this chapter or any rule adopted under it. A consent 4736
agreement, when ratified by an affirmative vote of not fewer than 4737
six members of the board, shall constitute the findings and order 4738
of the board with respect to the matter addressed in the 4739
agreement. If the board refuses to ratify a consent agreement, the 4740
admissions and findings contained in the consent agreement shall 4741
be of no force or effect. 4742

(D) For purposes of divisions (B)(10), (12), and (14) of this 4743
section, the commission of the act may be established by a finding 4744
by the board, pursuant to an adjudication under Chapter 119. of 4745
the Revised Code, that the individual committed the act. The board 4746
does not have jurisdiction under those divisions if the trial 4747
court renders a final judgment in the individual's favor and that 4748
judgment is based upon an adjudication on the merits. The board 4749
has jurisdiction under those divisions if the trial court issues 4750

an order of dismissal upon technical or procedural grounds.

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(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

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(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

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(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

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(3) In investigating a possible violation of this chapter or 4782
any rule adopted under this chapter, the board may administer 4783
oaths, order the taking of depositions, issue subpoenas, and 4784
compel the attendance of witnesses and production of books, 4785
accounts, papers, records, documents, and testimony, except that a 4786
subpoena for patient record information shall not be issued 4787
without consultation with the attorney general's office and 4788
approval of the secretary and supervising member of the board. 4789
Before issuance of a subpoena for patient record information, the 4790
secretary and supervising member shall determine whether there is 4791
probable cause to believe that the complaint filed alleges a 4792
violation of this chapter or any rule adopted under it and that 4793
the records sought are relevant to the alleged violation and 4794
material to the investigation. The subpoena may apply only to 4795
records that cover a reasonable period of time surrounding the 4796
alleged violation. 4797

On failure to comply with any subpoena issued by the board 4798
and after reasonable notice to the person being subpoenaed, the 4799
board may move for an order compelling the production of persons 4800
or records pursuant to the Rules of Civil Procedure. 4801

A subpoena issued by the board may be served by a sheriff, 4802
the sheriff's deputy, or a board employee designated by the board. 4803
Service of a subpoena issued by the board may be made by 4804
delivering a copy of the subpoena to the person named therein, 4805
reading it to the person, or leaving it at the person's usual 4806
place of residence. When the person being served is a person whose 4807
practice is authorized by this chapter, service of the subpoena 4808
may be made by certified mail, restricted delivery, return receipt 4809
requested, and the subpoena shall be deemed served on the date 4810
delivery is made or the date the person refuses to accept 4811
delivery. 4812

A sheriff's deputy who serves a subpoena shall receive the 4813

same fees as a sheriff. Each witness who appears before the board 4814
in obedience to a subpoena shall receive the fees and mileage 4815
provided for witnesses in civil cases in the courts of common 4816
pleas. 4817

(4) All hearings and investigations of the board shall be 4818
considered civil actions for the purposes of section 2305.252 of 4819
the Revised Code. 4820

(5) Information received by the board pursuant to an 4821
investigation is confidential and not subject to discovery in any 4822
civil action. 4823

The board shall conduct all investigations and proceedings in 4824
a manner that protects the confidentiality of patients and persons 4825
who file complaints with the board. The board shall not make 4826
public the names or any other identifying information about 4827
patients or complainants unless proper consent is given or, in the 4828
case of a patient, a waiver of the patient privilege exists under 4829
division (B) of section 2317.02 of the Revised Code, except that 4830
consent or a waiver of that nature is not required if the board 4831
possesses reliable and substantial evidence that no bona fide 4832
physician-patient relationship exists. 4833

The board may share any information it receives pursuant to 4834
an investigation, including patient records and patient record 4835
information, with law enforcement agencies, other licensing 4836
boards, and other governmental agencies that are prosecuting, 4837
adjudicating, or investigating alleged violations of statutes or 4838
administrative rules. An agency or board that receives the 4839
information shall comply with the same requirements regarding 4840
confidentiality as those with which the state medical board must 4841
comply, notwithstanding any conflicting provision of the Revised 4842
Code or procedure of the agency or board that applies when it is 4843
dealing with other information in its possession. In a judicial 4844

proceeding, the information may be admitted into evidence only in 4845
accordance with the Rules of Evidence, but the court shall require 4846
that appropriate measures are taken to ensure that confidentiality 4847
is maintained with respect to any part of the information that 4848
contains names or other identifying information about patients or 4849
complainants whose confidentiality was protected by the state 4850
medical board when the information was in the board's possession. 4851
Measures to ensure confidentiality that may be taken by the court 4852
include sealing its records or deleting specific information from 4853
its records. 4854

(6) On a quarterly basis, the board shall prepare a report 4855
that documents the disposition of all cases during the preceding 4856
three months. The report shall contain the following information 4857
for each case with which the board has completed its activities: 4858

(a) The case number assigned to the complaint or alleged 4859
violation; 4860

(b) The type of certificate to practice, if any, held by the 4861
individual against whom the complaint is directed; 4862

(c) A description of the allegations contained in the 4863
complaint; 4864

(d) The disposition of the case. 4865

The report shall state how many cases are still pending and 4866
shall be prepared in a manner that protects the identity of each 4867
person involved in each case. The report shall be a public record 4868
under section 149.43 of the Revised Code. 4869

(G) If the secretary and supervising member determine that 4870
there is clear and convincing evidence that an individual has 4871
violated division (B) of this section and that the individual's 4872
continued practice presents a danger of immediate and serious harm 4873
to the public, they may recommend that the board suspend the 4874

individual's certificate to practice without a prior hearing. 4875
Written allegations shall be prepared for consideration by the 4876
board. 4877

The board, upon review of those allegations and by an 4878
affirmative vote of not fewer than six of its members, excluding 4879
the secretary and supervising member, may suspend a certificate 4880
without a prior hearing. A telephone conference call may be 4881
utilized for reviewing the allegations and taking the vote on the 4882
summary suspension. 4883

The board shall issue a written order of suspension by 4884
certified mail or in person in accordance with section 119.07 of 4885
the Revised Code. The order shall not be subject to suspension by 4886
the court during pendency of any appeal filed under section 119.12 4887
of the Revised Code. If the individual subject to the summary 4888
suspension requests an adjudicatory hearing by the board, the date 4889
set for the hearing shall be within fifteen days, but not earlier 4890
than seven days, after the individual requests the hearing, unless 4891
otherwise agreed to by both the board and the individual. 4892

Any summary suspension imposed under this division shall 4893
remain in effect, unless reversed on appeal, until a final 4894
adjudicative order issued by the board pursuant to this section 4895
and Chapter 119. of the Revised Code becomes effective. The board 4896
shall issue its final adjudicative order within sixty days after 4897
completion of its hearing. A failure to issue the order within 4898
sixty days shall result in dissolution of the summary suspension 4899
order but shall not invalidate any subsequent, final adjudicative 4900
order. 4901

(H) If the board takes action under division (B)(9), (11), or 4902
(13) of this section and the judicial finding of guilt, guilty 4903
plea, or judicial finding of eligibility for intervention in lieu 4904
of conviction is overturned on appeal, upon exhaustion of the 4905

criminal appeal, a petition for reconsideration of the order may
be filed with the board along with appropriate court documents.
Upon receipt of a petition of that nature and supporting court
documents, the board shall reinstate the individual's certificate
to practice. The board may then hold an adjudication under Chapter
119. of the Revised Code to determine whether the individual
committed the act in question. Notice of an opportunity for a
hearing shall be given in accordance with Chapter 119. of the
Revised Code. If the board finds, pursuant to an adjudication held
under this division, that the individual committed the act or if
no hearing is requested, the board may order any of the sanctions
identified under division (B) of this section.

(I) The certificate to practice issued to an individual under
this chapter and the individual's practice in this state are
automatically suspended as of the date the individual pleads
guilty to, is found by a judge or jury to be guilty of, or is
subject to a judicial finding of eligibility for intervention in
lieu of conviction in this state or treatment or intervention in
lieu of conviction in another jurisdiction for any of the
following criminal offenses in this state or a substantially
equivalent criminal offense in another jurisdiction: aggravated
murder, murder, voluntary manslaughter, felonious assault,
kidnapping, rape, sexual battery, gross sexual imposition,
aggravated arson, aggravated robbery, or aggravated burglary.
Continued practice after suspension shall be considered practicing
without a certificate.

The board shall notify the individual subject to the
suspension by certified mail or in person in accordance with
section 119.07 of the Revised Code. If an individual whose
certificate is suspended under this division fails to make a
timely request for an adjudication under Chapter 119. of the
Revised Code, the board shall enter a final order permanently

revoking the individual's certificate to practice. 4938

(J) If the board is required by Chapter 119. of the Revised 4939
Code to give notice of an opportunity for a hearing and if the 4940
individual subject to the notice does not timely request a hearing 4941
in accordance with section 119.07 of the Revised Code, the board 4942
is not required to hold a hearing, but may adopt, by an 4943
affirmative vote of not fewer than six of its members, a final 4944
order that contains the board's findings. In that final order, the 4945
board may order any of the sanctions identified under division (A) 4946
or (B) of this section. 4947

(K) Any action taken by the board under division (B) of this 4948
section resulting in a suspension from practice shall be 4949
accompanied by a written statement of the conditions under which 4950
the individual's certificate to practice may be reinstated. The 4951
board shall adopt rules governing conditions to be imposed for 4952
reinstatement. Reinstatement of a certificate suspended pursuant 4953
to division (B) of this section requires an affirmative vote of 4954
not fewer than six members of the board. 4955

(L) When the board refuses to grant a certificate to an 4956
applicant, revokes an individual's certificate to practice, 4957
refuses to register an applicant, or refuses to reinstate an 4958
individual's certificate to practice, the board may specify that 4959
its action is permanent. An individual subject to a permanent 4960
action taken by the board is forever thereafter ineligible to hold 4961
a certificate to practice and the board shall not accept an 4962
application for reinstatement of the certificate or for issuance 4963
of a new certificate. 4964

(M) Notwithstanding any other provision of the Revised Code, 4965
all of the following apply: 4966

(1) The surrender of a certificate issued under this chapter 4967
shall not be effective unless or until accepted by the board. 4968

Reinstatement of a certificate surrendered to the board requires 4969
an affirmative vote of not fewer than six members of the board. 4970

(2) An application for a certificate made under the 4971
provisions of this chapter may not be withdrawn without approval 4972
of the board. 4973

(3) Failure by an individual to renew a certificate of 4974
registration in accordance with this chapter shall not remove or 4975
limit the board's jurisdiction to take any disciplinary action 4976
under this section against the individual. 4977

(N) Sanctions shall not be imposed under division (B)(28) of 4978
this section against any person who waives deductibles and 4979
copayments as follows: 4980

(1) In compliance with the health benefit plan that expressly 4981
allows such a practice. Waiver of the deductibles or copayments 4982
shall be made only with the full knowledge and consent of the plan 4983
purchaser, payer, and third-party administrator. Documentation of 4984
the consent shall be made available to the board upon request. 4985

(2) For professional services rendered to any other person 4986
authorized to practice pursuant to this chapter, to the extent 4987
allowed by this chapter and rules adopted by the board. 4988

(O) Under the board's investigative duties described in this 4989
section and subject to division (F) of this section, the board 4990
shall develop and implement a quality intervention program 4991
designed to improve through remedial education the clinical and 4992
communication skills of individuals authorized under this chapter 4993
to practice medicine and surgery, osteopathic medicine and 4994
surgery, and podiatric medicine and surgery. In developing and 4995
implementing the quality intervention program, the board may do 4996
all of the following: 4997

(1) Offer in appropriate cases as determined by the board an 4998

educational and assessment program pursuant to an investigation	4999
the board conducts under this section;	5000
(2) Select providers of educational and assessment services,	5001
including a quality intervention program panel of case reviewers;	5002
(3) Make referrals to educational and assessment service	5003
providers and approve individual educational programs recommended	5004
by those providers. The board shall monitor the progress of each	5005
individual undertaking a recommended individual educational	5006
program.	5007
(4) Determine what constitutes successful completion of an	5008
individual educational program and require further monitoring of	5009
the individual who completed the program or other action that the	5010
board determines to be appropriate;	5011
(5) Adopt rules in accordance with Chapter 119. of the	5012
Revised Code to further implement the quality intervention	5013
program.	5014
An individual who participates in an individual educational	5015
program pursuant to this division shall pay the financial	5016
obligations arising from that educational program.	5017
Section 2. That existing sections 1533.18, 1701.76, 1701.82,	5018
1775.14, 2117.06, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10,	5019
2305.113, 2305.234, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60,	5020
2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33,	5021
2315.34, 2315.36, 2323.51, 2505.02, 3719,81, 4507.07, 4513.263,	5022
4713.02, 4715.42, 4723.01, 4723.03, 4723.28, 4723.43, 4723.44,	5023
4723.48, 4723.482, 4729.01, and 4731.22 and sections 2315.41,	5024
2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised	5025
Code are hereby repealed.	5026
Section 3. The General Assembly makes the following statement	5027

of findings and intent: 5028

(A) The General Assembly finds: 5029

(1) The current civil litigation system represents a 5030
challenge to the economy of the state of Ohio, which is dependent 5031
on business providing essential jobs and creative innovation. 5032

(2) The General Assembly recognizes that a fair system of 5033
civil justice strikes an essential balance between the rights of 5034
those who have been legitimately harmed and the rights of those 5035
who have been unfairly sued. 5036

(3) This state has a rational and legitimate state interest 5037
in making certain that Ohio has a fair, predictable system of 5038
civil justice that preserves the rights of those who have been 5039
harmed by negligent behavior, while curbing the number of 5040
frivolous lawsuits, which increases the cost of doing business, 5041
threatens Ohio jobs, drives up costs to consumers, and may stifle 5042
innovation. The General Assembly bases its findings on this state 5043
interest upon the following evidence: 5044

(a) A National Bureau of Economic Research study estimates 5045
that states that have adopted abuse reforms have experienced 5046
employment growth between eleven and twelve per cent, productivity 5047
growth of seven to eight per cent, and total output growth between 5048
ten and twenty per cent for liability reducing reforms. 5049

(b) According to a 2002 study from the White House Council of 5050
Economic Advisors, the cost of tort litigation is equal to a two 5051
and one tenth per cent wage and salary tax, a one and three tenth 5052
per cent tax on personal consumption, and a three and one tenth 5053
per cent tax on capital investment income. 5054

(c) The 2003 Harris Poll of nine hundred and twenty-eight 5055
senior corporate attorneys conducted by the United States Chamber 5056
of Commerce's Institute for Legal Reform reports that eight out of 5057
ten respondents claim that the litigation environment in a state 5058

could affect important business decisions about their company, 5059
such as where to locate or do business. In addition, one in four 5060
senior attorneys surveyed cited limits on damages as one specific 5061
means for state policy makers to improve the litigation 5062
environment in their state and promote economic development. 5063

(d) The cost of the United States tort system grew at a 5064
record rate in 2001, according to a February 2003 study published 5065
by Tillinghast-Towers Perrin. The system, however, failed to 5066
return even fifty cents for every dollar to people who were 5067
injured. Tillinghast-Towers Perrin also found that fifty-four per 5068
cent of the total cost accounted for attorney's fees, both for 5069
plaintiffs and defendants, and administration. Only twenty-two per 5070
cent of the tort system's cost was used directly to reimburse 5071
people for the economic damages associated with injuries and 5072
losses they sustain. 5073

(e) The Tillinghast-Towers Perrin study also found that the 5074
cost of the United States tort system grew fourteen and three 5075
tenths of a per cent in 2001, the highest increase since 1986, 5076
greatly exceeding overall economic growth of two and six tenth per 5077
cent. As a result, the cost of the United States tort system rose 5078
to two hundred and five billion dollars total or seven hundred and 5079
twenty-one dollars per citizen, equal to a five per cent tax on 5080
wages. 5081

(f) As stated in testimony by Ohio Department of Development 5082
Director Bruce Johnson, as a percentage of the gross domestic 5083
product, United States tort costs have grown from six tenths of a 5084
per cent to two per cent since 1950, about double the percentage 5085
that other industrialized nations pay annually. These tort costs 5086
put Ohio businesses at a disadvantage vis-a-vis foreign 5087
competition and are not helpful to development. 5088

(4)(a) Reform to the punitive damages law in Ohio is urgently 5089

needed to restore balance, fairness, and predictability to the 5090
civil justice system. 5091

(b) In prohibiting a court from entering judgment for 5092
punitive or exemplary damages in excess of the two times the 5093
amount of compensatory damages awarded to the plaintiff and, with 5094
respect to an individual or small employer that employs not more 5095
than one hundred persons or if the employer is classified as being 5096
in the manufacturing sector not more than five hundred persons, 5097
from entering judgment for punitive or exemplary damages in excess 5098
of the lesser of two times the amount of compensatory damages 5099
awarded to the plaintiff or ten per cent of the individual's or 5100
employer's net worth when the tort was committed up to a maximum 5101
of three hundred fifty thousand dollars, the General Assembly 5102
finds the following: 5103

(i) Punitive or exemplary damages awarded in tort actions are 5104
similar in nature to fines and additional court costs imposed in 5105
criminal actions, because punitive or exemplary damages, fines, 5106
and additional court costs are designed to punish a tortfeasor for 5107
certain wrongful actions or omissions. 5108

(ii) The absence of a statutory ceiling upon recoverable 5109
punitive or exemplary damages in tort actions has resulted in 5110
occasional multiple awards of punitive or exemplary damages that 5111
have no rational connection to the wrongful actions or omissions 5112
of the tortfeasor. 5113

(iii) The distinction between small employers and other 5114
defendants based on the number of full-time permanent employees 5115
distinguishes all other defendants including individuals and 5116
nonemployers. This distinction is rationally based on size 5117
considering both the economic capacity of an employer to maintain 5118
that number of employees and to impact the community at large, as 5119
exemplified by the North American Industry Classification System 5120

and the United States Small Business Administration's Office of 5121
Advocacy. 5122

(c) The limits on punitive or exemplary damages as specified 5123
in section 2315.21 of the Revised Code, as amended by this act, 5124
are based on guidance recently provided by the United States 5125
Supreme Court in *State Farm Mutual Insurance v. Campbell* (2003), 5126
123 S.Ct. 1513. In determining whether a one hundred and 5127
forty-five million dollar award of punitive damages was 5128
appropriate, the United States Supreme Court referred to the three 5129
guideposts for punitive damages articulated in *BMW of North 5130
America Inc. v. Gore* (1996), 517 U.S. 599: (1) the degree of 5131
reprehensibility of the defendant's misconduct; (2) the disparity 5132
between the actual or potential harm suffered by the plaintiff and 5133
the punitive damages awarded; and (3) the difference between the 5134
punitive damages awarded by the jury and the civil penalties 5135
authorized or imposed in comparable cases. According to the United 5136
States Supreme Court, "few awards exceeding a single digit ratio 5137
between punitive damages and compensatory damages. . . will 5138
satisfy due process." *Id.* at 31. 5139

(d) The limits on punitive or exemplary damages as specified 5140
in section 2315.21 of the Revised Code, as amended by this act, 5141
are based on testimony asking members of the General Assembly to 5142
recognize the economic impact of occasional multiple punitive 5143
damages awards and stating that a number of other states have 5144
imposed limits on punitive or exemplary damage awards. 5145

(5)(a) Statutes of repose are vital instruments that provide 5146
time limits, closure, and peace of mind to potential parties of 5147
lawsuits. 5148

(b) Forty-seven other states have adopted statutes of repose 5149
to protect architects, engineers, and constructors of improvements 5150
to real property from lawsuits arising after a specific number of 5151

years after completion of an improvement to real property. The
General Assembly recognizes that Kentucky, New York, and Ohio are
the only three states that do not have a statute of repose. The
General Assembly also acknowledges that Ohio stands by itself, due
to the fact that both Kentucky and New York have a rebuttable
presumption that exists and only if a plaintiff can overcome that
presumption can a claim continue.

(c) As stated in testimony by Jack Pottmeyer, architect and
managing principal of MKC Associates, Inc., this unlimited
liability forces professionals to maintain records in perpetuity,
because those professionals cannot reasonably predict when a
record from fifteen or twenty years earlier may become the subject
of a civil action. Those actions occur despite the fact that, over
the course of many years, owners of the property or those
responsible for its maintenance could make modifications or other
substantial changes that would significantly change the intent or
scope of the original design of the property designed by an
architectural firm. The problem is compounded by the fact that
professional liability insurance for architects and engineers is
offered by relatively few insurance carriers and is written on
what is known as a "claims made basis," meaning a policy must be
in effect when the claim is made, not at the time of the service,
in order for the claim to be paid. Without a statute of repose,
professional liability insurance must be maintained forever to
ensure coverage of any potential claim on previous services. These
minimum annual premiums can add up, averaging between three
thousand five hundred dollars and five thousand dollars annually,
which is especially burdensome for a retired design professional.

(6)(a) Noneconomic damages include such things as pain and
suffering, emotional distress, and loss of consortium or
companionship, which do not involve an economic loss and have,
therefore, no precise economic value. Punitive damages are

intended to punish a defendant for wrongful conduct. Pain and suffering awards are distinct from punitive damages. Pain and suffering awards are intended to compensate a person for the person's loss. They are not intended to punish a defendant for wrongful conduct.

(b) The judicial analysis of compensatory damages representing noneconomic loss, as specified in section 2315.19 of the Revised Code, are based on testimony asking members of the General Assembly to recognize these distinctions.

(c) With respect to noneconomic loss for either: (1) permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system; or (2) permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life-sustaining activities, the General Assembly recognizes that evidence that juries may consider in awarding pain and suffering damages for these types of injuries is different from evidence courts may consider for punitive damages. For example, the amount of a plaintiff's pain and suffering is not relevant to a decision on wrongdoing, and the degree of the defendant's wrongdoing is not relevant to the amount of pain and suffering.

(d) While pain and suffering awards are inherently subjective, it is believed that this inflation of noneconomic damages is partially due to the improper consideration of evidence of wrongdoing in assessing pain and suffering damages.

(e) Inflated damage awards create an improper resolution of civil justice claims. The increased and improper cost of litigation and resulting rise in insurance premiums is passed on to the general public through higher prices for products and services.

(f) Therefore, with respect to the types of injuries

articulated in division (A)(6)(c) of this section, the General
Assembly finds that courts should provide juries with clear
instructions about the purpose of pain and suffering damages.
Courts should instruct juries that evidence of misconduct is not
to be considered in deciding compensation for noneconomic damages
for those types of injuries. Rather, it is to be considered solely
for the purpose of deciding punitive damage awards. In cases in
which punitive damages are requested, defendants should have the
right to request bifurcation of a trial to ensure that evidence of
misconduct is not inappropriately considered by the jury in its
determination of liability and compensatory damages. As additional
protection, trial and appellate courts should rigorously review
pain and suffering awards to ensure that they properly serve
compensatory purposes and are not excessive.

(7)(a) The collateral source rule prohibits a defendant from
introducing evidence that the plaintiff received any benefits from
sources outside the dispute.

(b) Twenty-one states have modified or abolished the
collateral source rule.

(B) In enacting section 2305.131 of the Revised Code in this
act, it is the intent of the General Assembly to do all of the
following:

(1) To declare that the ten-year statute of repose prescribed
by section 2305.131 of the Revised Code, as enacted by this act,
is a specific provision intended to promote a greater interest
than the interest underlying the general four-year statute of
limitations prescribed by section 2305.09 of the Revised Code, the
general two-year statute of limitations prescribed by section
2305.10 of the Revised Code, and other general statutes of
limitation prescribed by the Revised Code;

(2) To recognize that, subsequent to the completion of the

construction of an improvement to real property, all of the 5246
following generally apply to the persons who provided services for 5247
the improvement or who furnished the design, planning, supervision 5248
of construction, or construction of the improvement: 5249

(a) They lack control over the improvement, the ability to 5250
make determinations with respect to the improvement, and the 5251
opportunity or responsibility to maintain or undertake the 5252
maintenance of the improvement. 5253

(b) They lack control over other forces, uses, and 5254
intervening causes that may cause stress, strain, or wear and tear 5255
to the improvement. 5256

(c) They have no right or opportunity to be made aware of, to 5257
evaluate the effect of, or to take action to overcome the effect 5258
of the forces, uses, and intervening causes described in division 5259
(E)(5)(b) of this section. 5260

(3) To recognize that, more than ten years after the 5261
completion of the construction of an improvement to real property, 5262
the availability of relevant evidence pertaining to the 5263
improvement and the availability of witnesses knowledgeable with 5264
respect to the improvement is problematic; 5265

(4) To recognize that maintaining records and other 5266
documentation pertaining to services provided for an improvement 5267
to real property or the design, planning, supervision of 5268
construction, or construction of an improvement to real property 5269
for a reasonable period of time is appropriate and to recognize 5270
that, because the useful life of an improvement to real property 5271
may be substantially longer than ten years after the completion of 5272
the construction of the improvement, it is an unacceptable burden 5273
to require the maintenance of those types of records and other 5274
documentation for a period in excess of ten years after that 5275
completion; 5276

(5) To declare that section 2305.131 of the Revised Code, as 5277
enacted by this act, strikes a rational balance between the rights 5278
of prospective claimants and the rights of design professionals, 5279
construction contractors, and construction subcontractors and to 5280
declare that the ten-year statute of repose prescribed in that 5281
section is a rational period of repose intended to preclude the 5282
pitfalls of stale litigation but not to affect civil actions 5283
against those in actual control and possession of an improvement 5284
to real property at the time that a defective and unsafe condition 5285
of that improvement causes an injury to real or personal property, 5286
bodily injury, or wrongful death. 5287

(C) In enacting division (D)(2) of section 2125.02 and 5288
division (C) of section 2305.10 of the Revised Code in this act, 5289
it is the intent of the General Assembly to do all of the 5290
following: 5291

(1) To declare that the ten-year statute of repose prescribed 5292
by division (D)(2) of section 2125.02 and division (C) of section 5293
2305.10 of the Revised Code, as enacted by this act, are specific 5294
provisions intended to promote a greater interest than the 5295
interest underlying the general four-year statute of limitations 5296
prescribed by section 2305.09 of the Revised Code, the general 5297
two-year statutes of limitations prescribed by sections 2125.02 5298
and 2305.10 of the Revised Code, and other general statutes of 5299
limitations prescribed by the Revised Code; 5300

(2) To declare that, subject to the two-year exceptions 5301
prescribed in division (D)(2)(d) of section 2125.02 and in 5302
division (C)(4) of section 2305.10 of the Revised Code, the 5303
ten-year statutes of repose shall serve as a limitation upon the 5304
commencement of a civil action in accordance with an otherwise 5305
applicable statute of limitations prescribed by the Revised Code; 5306

(3) To recognize that subsequent to the delivery of a 5307

product, the manufacturer or supplier lacks control over the 5308
product, over the uses made of the product, and over the 5309
conditions under which the product is used; 5310

(4) To recognize that under the circumstances described in 5311
division (C)(3) of this section, it is more appropriate for the 5312
party or parties who have had control over the product during the 5313
intervening time period to be responsible for any harm caused by 5314
the product; 5315

(5) To recognize that, more than ten years after a product 5316
has been delivered, it is very difficult for a manufacturer or 5317
supplier to locate reliable evidence and witnesses regarding the 5318
design, production, or marketing of the product, thus severely 5319
disadvantaging manufacturers or suppliers in their efforts to 5320
defend actions based on a product liability claim; 5321

(6) To recognize the inappropriateness of applying current 5322
legal and technological standards to products manufactured many 5323
years prior to the commencement of an action based on a product 5324
liability claim; 5325

(7) To recognize that a statute of repose for product 5326
liability claims would enhance the competitiveness of Ohio 5327
manufacturers by reducing their exposure to disruptive and 5328
protracted liability with respect to products long out of their 5329
control, by increasing finality in commercial transactions, and by 5330
allowing manufacturers to conduct their affairs with increased 5331
certainty; 5332

(8) To declare that division (D)(2) of section 2125.02 and 5333
division (C) of section 2305.10 of the Revised Code, as enacted by 5334
this act, strike a rational balance between the rights of 5335
prospective claimants and the rights of product manufacturers and 5336
suppliers and to declare that the ten-year statutes of repose 5337
prescribed in those sections are rational periods of repose 5338

intended to preclude the problems of stale litigation but not to
affect civil actions against those in actual control and
possession of a product at the time that the product causes an
injury to real or personal property, bodily injury, or wrongful
death;

(D) The General Assembly declares its intent that the
amendment made by this act to section 2307.71 of the Revised Code
is intended to supersede the holding of the Ohio Supreme Court in
Carrel v. Allied Products Corp. (1997), 78 Ohio St.3d 284, that
the common law product liability cause of action of negligent
design survives the enactment of the Ohio Product Liability Act,
sections 2307.71 to 2307.80 of the Revised Code, and to abrogate
all common law product liability causes of action.

(E) The Ohio General Assembly respectfully requests the Ohio
Supreme Court to uphold this intent in the courts of Ohio, to
reconsider its holding on damage caps in *State v. Sheward* (1999),
Ohio St. 3d 451, to reconsider its holding on the deductibility of
collateral source benefits in *Sorrel v. Thevenir* (1994), 69 Ohio
St. 3d 415, and to reconsider its holding on statutes of repose in
Brennaman v. R.M.I. Co. (1994), 70 Ohio St. 3d 460.

Section 4. (A) The General Assembly acknowledges the Court's
authority in prescribing rules governing practice and procedure in
the courts of this state, as provided by Section 5 of Article IV
of the Ohio Constitution.

(B) The General Assembly hereby requests the Supreme Court to
adopt a "Legal Consumer's Bill of Rights" that would substantially
conform with the following language:

Each attorney who is licensed to practice law in this state
shall append to every written retainer agreement or contract for
legal services a legal consumer's bill of rights that shall be

substantially in the following form:	5369
"LEGAL CONSUMER'S BILL OF RIGHTS	5370
Consumers of legal services have both rights and responsibilities in the resolution of legal disputes. Lawyers, as well, have duties and rights related to the clients they represent. This listing is designed to provide consumers with an overview of their rights and responsibilities in relating to their lawyers and in the resolution of their legal matters.	5371 5372 5373 5374 5375 5376
Client rights and lawyer duties:	5377
1. COURTESY	5378
You can expect to be treated with courtesy and consideration by your lawyer and by others under the supervision of your lawyer involved in your legal matter.	5379 5380 5381
2. PROFESSIONALISM	5382
You can expect competent and diligent representation by your lawyer, in accord with accepted aspirational standards of professionalism.	5383 5384 5385
3. ATTENTION	5386
You can expect your lawyer's independent professional judgment and loyalty uncompromised by conflicts of interest. Your lawyer will maintain accurate records and protect any funds you provide regarding your legal matter.	5387 5388 5389 5390
4. FEE DISCLOSURE	5391
You can expect your lawyer to fully disclose fee arrangements and other costs at the onset of your relationship, and to provide a written fee agreement or contingency fee contract.	5392 5393 5394
5. RESPONSIVENESS	5395
You can expect to have your questions answered and telephone calls returned by your lawyer in a reasonable time in accordance	5396 5397

with professional standards.	5398
6. CONTROL	5399
You can expect your lawyer to keep you informed about the	5400
progress of your legal matter, to disclose alternative approaches	5401
to resolving your legal matter, and to have you participate	5402
meaningfully in the resolution process.	5403
7. RESPECT	5404
You can expect to have your lawyer respect your legitimate	5405
objectives and to include you in making settlement decisions	5406
regarding your legal dispute.	5407
8. CONFIDENTIALITY	5408
You can expect to have your lawyer honor the attorney-client	5409
privilege, protect your right to privacy and preserve your secrets	5410
and confidences.	5411
9. ETHICS	5412
You can expect ethical conduct from your lawyer in accord	5413
with the Code of Professional Responsibility.	5414
10. NON-DISCRIMINATION	5415
You may not be refused representation based upon race, creed,	5416
color, religion, sex, age, national origin or disability.	5417
11. GRIEVANCES	5418
You may file a grievance with the certified grievance	5419
committee of your local bar association or the Ohio State Bar	5420
Association or with the Board of Commissioners on Grievances and	5421
Discipline of the Supreme Court if you are not satisfied with the	5422
legal services you have retained. The committee and the board	5423
include nonattorneys as members. The Board of Commissioners on	5424
Grievances and Discipline of the Supreme Court of Ohio has the	5425
authority to discipline and to impose sanctions on attorneys in	5426

Ohio.	5427
Client responsibilities	5428
1. TRUTHFULNESS	5429
Your lawyer can expect you to be truthful and to have you	5430
provide a full disclosure of pertinent information needed to	5431
handle your legal matter.	5432
2. RESPONSIVENESS	5433
Your lawyer can expect you to provide timely responses to	5434
reasonable requests for information, and to be on time for legal	5435
proceedings. Your lawyer can expect you to pay your legal bills in	5436
a timely manner.	5437
3. COURTESY	5438
Just as you expect to be treated with respect and courtesy,	5439
your lawyer can expect you to set appointments in advance to meet	5440
with your lawyer, to be responsible for making reasonable requests	5441
of your lawyer's time, and to be treated respectfully.	5442
4. COMMUNICATION	5443
Your lawyers can expect you to communicate in a timely manner	5444
about your legal matter, or if you are unhappy with the way your	5445
matter is being handled. There is a grievance procedure in place	5446
to handle disputes with your lawyer that you are not able to	5447
resolve on your own.	5448
5. ETHICS	5449
Your lawyer can expect not to be asked to engage in behavior	5450
that is unethical, inappropriate, unprofessional, or illegal."	5451
(C) The General Assembly hereby requests the Supreme Court to	5452
amend Ohio Rules of Civil Procedure Rule 68 to conform to Federal	5453
Rules of Civil Procedure Rule 68.	5454

Section 5. If any item of law that constitutes the whole or 5455
part of a section of law contained in this act, or if any 5456
application of any item of law that constitutes the whole or part 5457
of a section of law contained in this act, is held invalid, the 5458
invalidity does not affect other items of law or applications of 5459
items of law that can be given effect without the invalid item of 5460
law or application. To this end, the items of law of which the 5461
sections contained in this act are composed, and their 5462
applications, are independent and severable. 5463

Section 6. If any item of law that constitutes the whole or 5464
part of a section of law contained in this act, or if any 5465
application of any item of law contained in this act, is held to 5466
be preempted by federal law, the preemption of the item of law or 5467
its application does not affect other items of law or applications 5468
that can be given affect. The items of law of which the sections 5469
of this act are composed, and their applications, are independent 5470
and severable. 5471

Section 7. Section 2505.02 of the Revised Code is presented 5472
in this act as a composite of the section as amended by Am. Sub. 5473
H.B. 292, Am. Sub. H.B. 342, and Sub. S.B. 187 of the 125th 5474
General Assembly. The General Assembly, applying the principle 5475
stated in division (B) of section 1.52 of the Revised Code that 5476
amendments are to be harmonized if reasonably capable of 5477
simultaneous operation, finds that the composite is the resulting 5478
version of the section in effect prior to the effective date of 5479
the section as presented in this act. 5480

Section 8. Section 2323.44 of the Revised Code, as enacted by 5481
this act, shall take effect January 1, 2006. 5482

Section 9. This act's amendment of division (A)(7) of section 4713.02 of the Revised Code does not affect the term of office of any person serving as a member of the State Board of Cosmetology on the effective date of this act.

Section 10. This act's amendment of division (B)(24) of section 4723.28 of the Revised Code does not remove the authority of the Board of Nursing to conduct investigations and take disciplinary actions regarding a person who engaged in the activities specified in that division while participating in one of the advanced practice nurse pilot programs operated pursuant to sections 4723.52 to 4723.60 of the Revised Code prior to January 17, 2004, the effective date of the repeal of those sections, as provided in Section 3 of Am. Sub. H.B. 241 of the 123rd General Assembly.

Section 11. This act's amendment of division (B)(30) of section 4731.22 of the Revised Code does not remove the State Medical Board's authority to conduct investigations and take disciplinary actions regarding the failure of a collaborating physician to fulfill the responsibilities agreed to by the physician and a person participating in one of the advanced practice nurse pilot programs operated pursuant to sections 4723.52 to 4723.60 of the Revised Code prior to January 17, 2004, the effective date of the repeal of those sections, as provided in Section 3 of Am. Sub. H.B. 241 of the 123rd General Assembly.

Section 12. Section 4723.28 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 474 and Sub. S.B. 179 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be

harmonized if reasonably capable of simultaneous operation, finds 5512
that the composite is the resulting version of the section in 5513
effect prior to the effective date of the section as presented in 5514
this act. 5515

Section 13. Section 4731.22 of the Revised Code is presented 5516
in this act as a composite of the section as amended by both Am. 5517
Sub. H.B. 474 and Sub. S.B. 179 of the 124th General Assembly. The 5518
General Assembly, applying the principle stated in division (B) of 5519
section 1.52 of the Revised Code that amendments are to be 5520
harmonized if reasonably capable of simultaneous operation, finds 5521
that the composite is the resulting version of the section in 5522
effect prior to the effective date of the section as presented in 5523
this act. 5524

Section 14. For any cause of action that arises before the 5525
effective date of this act, the provisions set forth in sections 5526
1701.76, 1701.82, and 2307.97 of the Revised Code, as amended or 5527
enacted in Sections 1 and 2 of this act, are to be applied unless 5528
the court that has jurisdiction over the case finds both of the 5529
following: 5530

(A) That a substantive right of a party to the case has been 5531
impaired; 5532

(B) That the impairment is otherwise in violation of Section 5533
28 of Article II, Ohio Constitution. 5534