

**As Reported by the House Civil and Commercial Law Committee**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Sub. S. B. No. 86**

**Senators Stivers, Miller, Goodman, Jacobson, Randy Gardner, Coughlin,  
Amstutz, Brady, Herington, Fedor, Wachtmann, Schuring, Mumper, Spada,  
Harris, Nein, Carey, Schuler, DiDonato, Prentiss, Robert Gardner,  
Armbruster, White  
Representatives Latta, Seitz**

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**A BILL**

To amend sections 2305.113, 2305.234, 2711.22, 1  
3701.071, 3719.81, 4713.02, 4715.42, 4723.01, 2  
4723.03, 4723.28, 4723.44, 4723.48, 4723.482, 3  
4729.01, 4731.22, and 4731.295 of the Revised Code 4  
to extend immunity from liability for services 5  
provided by volunteer health care professionals 6  
and workers to additional health care facilities 7  
and locations and to nonprofit health care 8  
referral organizations, to provide additional 9  
requirements for the immunity of a health care 10  
professional, to increase the maximum allowable 11  
income of individuals who may be served by 12  
volunteers having immunity from liability, and to 13  
specify the nurses who may refer to themselves as 14  
advanced practice nurses. 15

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

**Section 1.** That sections 2305.113, 2305.234, 2711.22, 16  
3701.071, 3719.81, 4713.02, 4715.42, 4723.01, 4723.03, 4723.28, 17

4723.44, 4723.48, 4723.482, 4729.01, 4731.22, and 4731.295 of the 18  
Revised Code be amended to read as follows: 19

**Sec. 2305.113.** (A) Except as otherwise provided in this 20  
section, an action upon a medical, dental, optometric, or 21  
chiropractic claim shall be commenced within one year after the 22  
cause of action accrued. 23

(B)(1) If prior to the expiration of the one-year period 24  
specified in division (A) of this section, a claimant who 25  
allegedly possesses a medical, dental, optometric, or chiropractic 26  
claim gives to the person who is the subject of that claim written 27  
notice that the claimant is considering bringing an action upon 28  
that claim, that action may be commenced against the person 29  
notified at any time within one hundred eighty days after the 30  
notice is so given. 31

(2) An insurance company shall not consider the existence or 32  
nonexistence of a written notice described in division (B)(1) of 33  
this section in setting the liability insurance premium rates that 34  
the company may charge the company's insured person who is 35  
notified by that written notice. 36

(C) Except as to persons within the age of minority or of 37  
unsound mind as provided by section 2305.16 of the Revised Code, 38  
and except as provided in division (D) of this section, both of 39  
the following apply: 40

(1) No action upon a medical, dental, optometric, or 41  
chiropractic claim shall be commenced more than four years after 42  
the occurrence of the act or omission constituting the alleged 43  
basis of the medical, dental, optometric, or chiropractic claim. 44

(2) If an action upon a medical, dental, optometric, or 45  
chiropractic claim is not commenced within four years after the 46  
occurrence of the act or omission constituting the alleged basis 47

of the medical, dental, optometric, or chiropractic claim, then, 48  
any action upon that claim is barred. 49

(D)(1) If a person making a medical claim, dental claim, 50  
optometric claim, or chiropractic claim, in the exercise of 51  
reasonable care and diligence, could not have discovered the 52  
injury resulting from the act or omission constituting the alleged 53  
basis of the claim within three years after the occurrence of the 54  
act or omission, but, in the exercise of reasonable care and 55  
diligence, discovers the injury resulting from that act or 56  
omission before the expiration of the four-year period specified 57  
in division (C)(1) of this section, the person may commence an 58  
action upon the claim not later than one year after the person 59  
discovers the injury resulting from that act or omission. 60

(2) If the alleged basis of a medical claim, dental claim, 61  
optometric claim, or chiropractic claim is the occurrence of an 62  
act or omission that involves a foreign object that is left in the 63  
body of the person making the claim, the person may commence an 64  
action upon the claim not later than one year after the person 65  
discovered the foreign object or not later than one year after the 66  
person, with reasonable care and diligence, should have discovered 67  
the foreign object. 68

(3) A person who commences an action upon a medical claim, 69  
dental claim, optometric claim, or chiropractic claim under the 70  
circumstances described in division (D)(1) or (2) of this section 71  
has the affirmative burden of proving, by clear and convincing 72  
evidence, that the person, with reasonable care and diligence, 73  
could not have discovered the injury resulting from the act or 74  
omission constituting the alleged basis of the claim within the 75  
three-year period described in division (D)(1) of this section or 76  
within the one-year period described in division (D)(2) of this 77  
section, whichever is applicable. 78

(E) As used in this section: 79

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

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

(3) "Medical claim" means any claim that is asserted in any civil action against a physician, podiatrist, hospital, home, or residential facility, against any employee or agent of a physician, podiatrist, hospital, home, or residential facility, or against a licensed practical nurse, registered nurse, advanced practice nurse, physical therapist, physician assistant, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, and that arises out of the medical diagnosis, care, or treatment of any person. "Medical claim" includes the following:

(a) Derivative claims for relief that arise from the medical diagnosis, care, or treatment of a person;

(b) Claims that arise out of the medical diagnosis, care, or treatment of any person and to which either of the following applies:	111 112 113
(i) The claim results from acts or omissions in providing medical care.	114 115
(ii) The claim results from the hiring, training, supervision, retention, or termination of caregivers providing medical diagnosis, care, or treatment.	116 117 118
(c) Claims that arise out of the medical diagnosis, care, or treatment of any person and that are brought under section 3721.17 of the Revised Code.	119 120 121
(4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board.	122 123
(5) "Dentist" means any person who is licensed to practice dentistry by the state dental board.	124 125
(6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person.	126 127 128 129 130 131
(7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following:	132 133 134 135 136 137 138 139
(a) Loss of society, consortium, companionship, care,	140

assistance, attention, protection, advice, guidance, counsel, 141  
instruction, training, or education, or any other intangible loss 142  
that was sustained by the parent, guardian, custodian, or spouse; 143

(b) Expenditures of the parent, guardian, custodian, or 144  
spouse for medical, dental, optometric, or chiropractic care or 145  
treatment, for rehabilitation services, or for other care, 146  
treatment, services, products, or accommodations provided to the 147  
individual who was the subject of the medical diagnosis, care, or 148  
treatment, the dental diagnosis, care, or treatment, the dental 149  
operation, the optometric diagnosis, care, or treatment, or the 150  
chiropractic diagnosis, care, or treatment. 151

(8) "Registered nurse" means any person who is licensed to 152  
practice nursing as a registered nurse by the state board of 153  
nursing. 154

(9) "Chiropractic claim" means any claim that is asserted in 155  
any civil action against a chiropractor, or against any employee 156  
or agent of a chiropractor, and that arises out of the 157  
chiropractic diagnosis, care, or treatment of any person. 158  
"Chiropractic claim" includes derivative claims for relief that 159  
arise from the chiropractic diagnosis, care, or treatment of a 160  
person. 161

(10) "Chiropractor" means any person who is licensed to 162  
practice chiropractic by the state chiropractic ~~examining~~ board. 163

(11) "Optometric claim" means any claim that is asserted in 164  
any civil action against an optometrist, or against any employee 165  
or agent of an optometrist, and that arises out of the optometric 166  
diagnosis, care, or treatment of any person. "Optometric claim" 167  
includes derivative claims for relief that arise from the 168  
optometric diagnosis, care, or treatment of a person. 169

(12) "Optometrist" means any person licensed to practice 170  
optometry by the state board of optometry. 171

(13) "Physical therapist" means any person who is licensed to practice physical therapy under Chapter 4755. of the Revised Code.	172 173
(14) "Home" has the same meaning as in section 3721.10 of the Revised Code.	174 175
(15) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code.	176 177
(16) "Advanced practice nurse" <del>means any certified nurse practitioner, clinical nurse specialist, or certified registered nurse anesthetist, or a certified nurse midwife certified by the board of nursing under</del> <u>has the same meaning as in section 4723.41 4723.01</u> of the Revised Code.	178 179 180 181 182
(17) "Licensed practical nurse" means any person who is licensed to practice nursing as a licensed practical nurse by the state board of nursing pursuant to Chapter 4723. of the Revised Code.	183 184 185 186
(18) "Physician assistant" means any person who holds a valid certificate of registration or temporary certificate of registration issued pursuant to Chapter 4730. of the Revised Code.	187 188 189
(19) "Emergency medical technician-basic," "emergency medical technician-intermediate," and "emergency medical technician-paramedic" means any person who is certified under Chapter 4765. of the Revised Code as an emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, whichever is applicable.	190 191 192 193 194 195
<b>Sec. 2305.234.</b> (A) As used in this section:	196
(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.	197 198 199
(2) "Dental claim" has the same meaning as in section	200

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.

(3) "Governmental health care program" has the same meaning  
as in section 4731.65 of the Revised Code.

(4) "Health care facility or location" means a hospital,  
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, advanced~~ Advanced practice nurses, as  
defined in section 4723.01 of the Revised Code, and registered  
nurses and licensed practical nurses licensed under Chapter 4723.  
of the Revised Code;

(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;	231 232
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	233 234
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	235 236
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	237 238
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	239 240 241 242
<u>(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;</u>	243 244
<u>(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.</u>	245 246
<del>(5)</del> (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.	247 248 249 250 251 252 253
<del>(6)</del> (7) "Indigent and uninsured person" means a person who meets all of the following requirements:	254 255
(a) The person's income is not greater than <del>one</del> <u>two</u> hundred <del>fifty</del> 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	256 257 258 259 260

amended.	261
(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.	262 263 264 265
(c) Either of the following applies:	266
(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.	267 268 269 270
(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.	271 272 273 274 275 276
<del>(7)</del> (8) <u>"Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.</u>	277 278 279 280
(9) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.	281 282 283 284 285 286 287 288 289 290 291

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

~~(9)~~(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

~~(10)~~(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any ~~shelter or health care facility~~ or location, any nonprofit health care referral organization, or any other person or government entity.

~~(11)~~(12) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

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

from an action or omission of the volunteer in the provision at a 323  
~~nonprofit shelter or health care facility~~ to an indigent and 324  
uninsured person of medical, dental, or other health-related 325  
diagnosis, care, or treatment, including the provision of samples 326  
of medicine and other medical products, unless the action or 327  
omission constitutes willful or wanton misconduct. 328

(2) To qualify for the immunity described in division (B)(1) 329  
of this section, a health care professional shall do all of the 330  
following prior to providing diagnosis, care, or treatment: 331

(a) Determine, in good faith, that the indigent and uninsured 332  
person is mentally capable of giving informed consent to the 333  
provision of the diagnosis, care, or treatment and is not subject 334  
to duress or under undue influence; 335

(b) Inform the person of the provisions of this section, 336  
including notifying the person that, by giving informed consent to 337  
the provision of the diagnosis, care, or treatment, the person 338  
cannot hold the health care professional liable for damages in a 339  
tort or other civil action, including an action on a medical, 340  
dental, chiropractic, optometric, or other health-related claim, 341  
unless the action or omission of the health care professional 342  
constitutes willful or wanton misconduct; 343

(c) Obtain the informed consent of the person and a written 344  
waiver, signed by the person or by another individual on behalf of 345  
and in the presence of the person, that states that the person is 346  
mentally competent to give informed consent and, without being 347  
subject to duress or under undue influence, gives informed consent 348  
to the provision of the diagnosis, care, or treatment subject to 349  
the provisions of this section. A written waiver under division 350  
(B)(2)(c) of this section shall state clearly and in conspicuous 351  
type that the person or other individual who signs the waiver is 352  
signing it with full knowledge that, by giving informed consent to 353  
the provision of the diagnosis, care, or treatment, the person 354

cannot bring a tort or other civil action, including an action on 355  
a medical, dental, chiropractic, optometric, or other 356  
health-related claim, against the health care professional unless 357  
the action or omission of the health care professional constitutes 358  
willful or wanton misconduct. 359

(3) A physician or podiatrist who is not covered by medical 360  
malpractice insurance, but complies with division (B)(2) of this 361  
section, is not required to comply with division (A) of section 362  
4731.143 of the Revised Code. 363

(C) Subject to divisions ~~(E)~~(F) and ~~(F)~~(G)(3) of this 364  
section, health care workers who are volunteers are not liable in 365  
damages to any person or government entity in a tort or other 366  
civil action, including an action upon a medical, dental, 367  
chiropractic, optometric, or other health-related claim, for 368  
injury, death, or loss to person or property that allegedly arises 369  
from an action or omission of the health care worker in the 370  
provision ~~at a nonprofit shelter or health care facility~~ to an 371  
indigent and uninsured person of medical, dental, or other 372  
health-related diagnosis, care, or treatment, unless the action or 373  
omission constitutes willful or wanton misconduct. 374

(D) Subject to divisions (F) and (G)(3) of this section, a 375  
nonprofit health care referral organization is not liable in 376  
damages to any person or government entity in a tort or other 377  
civil action, including an action on a medical, dental, 378  
chiropractic, optometric, or other health-related claim, for 379  
injury, death, or loss to person or property that allegedly arises 380  
from an action or omission of the nonprofit health care referral 381  
organization in referring indigent and uninsured persons to, or 382  
arranging for the provision of, medical, dental, or other 383  
health-related diagnosis, care, or treatment by a health care 384  
professional described in division (B)(1) of this section or a 385  
health care worker described in division (C) of this section, 386

unless the action or omission constitutes willful or wanton 387  
misconduct. 388

(E) Subject to divisions ~~(E)~~(F) and ~~(F)~~(G)(3) of this section 389  
and to the extent that the registration requirements of section 390  
3701.071 of the Revised Code apply, a ~~nonprofit shelter or~~ health 391  
care facility or location associated with a health care 392  
professional described in division (B)(1) of this section ~~or~~, a 393  
health care worker described in division (C) of this section, or a 394  
nonprofit health care referral organization described in division 395  
(D) of this section is not liable in damages to any person or 396  
government entity in a tort or other civil action, including an 397  
action on a medical, dental, chiropractic, optometric, or other 398  
health-related claim, for injury, death, or loss to person or 399  
property that allegedly arises from an action or omission of the 400  
health care professional or worker ~~in providing for~~ or nonprofit 401  
health care referral organization relative to the shelter or 402  
~~facility~~ medical, dental, or other health-related diagnosis, care, 403  
or treatment provided to an indigent and uninsured person on 404  
behalf of or at the health care facility or location, unless the 405  
action or omission constitutes willful or wanton misconduct. 406

~~(E)~~(F)(1) Except as provided in division ~~(E)~~(F)(2) of this 407  
section, the immunities provided by divisions (B), (C), ~~and~~ (D), 408  
and (E) of this section are not available to ~~an individual or to a~~ 409  
~~nonprofit shelter~~ a health care professional, health care worker, 410  
nonprofit health care referral organization, or health care 411  
facility or location if, at the time of an alleged injury, death, 412  
or loss to person or property, the ~~individuals~~ health care 413  
professionals or health care workers involved are providing one of 414  
the following: 415

(a) Any medical, dental, or other health-related diagnosis, 416  
care, or treatment pursuant to a community service work order 417  
entered by a court under division (B) of section 2951.02 of the 418

Revised Code or imposed by a court as a community control	419
sanction;	420
(b) Performance of an operation;	421
(c) Delivery of a baby.	422
(2) Division <del>(E)</del> (F)(1) of this section does not apply to an	423
<del>individual who provides, or a nonprofit shelter or health care</del>	424
<del>facility at which the individual</del> <u>when a health care professional</u>	425
<u>or health care worker provides, medical, dental, or other</u>	426
<u>health-related</u> diagnosis, care, or treatment that is necessary to	427
preserve the life of a person in a medical emergency.	428
<del>(F)</del> (G)(1) This section does not create a new cause of action	429
or substantive legal right against a health care professional,	430
health care worker, <u>nonprofit health care referral organization,</u>	431
or <del>nonprofit shelter or health care facility</del> <u>or location.</u>	432
(2) This section does not affect any immunities from civil	433
liability or defenses established by another section of the	434
Revised Code or available at common law to which <del>an individual or</del>	435
<del>a nonprofit shelter</del> <u>health care professional, health care worker,</u>	436
<u>nonprofit health care referral organization,</u> or health care	437
facility <u>or location</u> may be entitled in connection with the	438
provision of emergency or other <u>medical, dental, or other</u>	439
<u>health-related</u> diagnosis, care, or treatment.	440
(3) This section does not grant an immunity from tort or	441
other civil liability to <del>an individual or a nonprofit shelter</del>	442
<u>health care professional, health care worker, nonprofit health</u>	443
<u>care referral organization,</u> or health care facility <u>or location</u>	444
for actions that are outside the scope of authority of health care	445
professionals or health care workers.	446
(4) This section does not affect any legal responsibility of	447
a health care professional <del>or,</del> <u>health care worker, or nonprofit</u>	448
<u>health care referral organization</u> to comply with any applicable	449

law of this state or rule of an agency of this state. 450

(5) This section does not affect any legal responsibility of 451  
a ~~nonprofit shelter or~~ health care facility or location to comply 452  
with any applicable law of this state, rule of an agency of this 453  
state, or local code, ordinance, or regulation that pertains to or 454  
regulates building, housing, air pollution, water pollution, 455  
sanitation, health, fire, zoning, or safety. 456

**Sec. 2711.22.** (A) Except as otherwise provided in this 457  
section, a written contract between a patient and a hospital or 458  
healthcare provider to settle by binding arbitration any dispute 459  
or controversy arising out of the diagnosis, treatment, or care of 460  
the patient rendered by a hospital or healthcare provider, that is 461  
entered into prior to the diagnosis, treatment, or care of the 462  
patient is valid, irrevocable, and enforceable once the contract 463  
is signed by all parties. The contract remains valid, irrevocable, 464  
and enforceable until or unless the patient or the patient's legal 465  
representative rescinds the contract by written notice within 466  
thirty days of the signing of the contract. A guardian or other 467  
legal representative of the patient may give written notice of the 468  
rescission of the contract if the patient is incapacitated or a 469  
minor. 470

(B) As used in this section and in sections 2711.23 and 471  
2711.24 of the Revised Code: 472

(1) "Healthcare provider" means a physician, podiatrist, 473  
dentist, licensed practical nurse, registered nurse, advanced 474  
practice nurse, chiropractor, optometrist, physician assistant, 475  
emergency medical technician-basic, emergency medical 476  
technician-intermediate, emergency medical technician-paramedic, 477  
or physical therapist. 478

(2) "Hospital," "physician," "podiatrist," "dentist," 479  
"licensed practical nurse," "registered nurse," ~~"advanced practice~~ 480



nurse," "chiropractor," "optometrist," "physician assistant," 481  
"emergency medical technician-basic," "emergency medical 482  
technician-intermediate," "emergency medical 483  
technician-paramedic," "physical therapist," "medical claim," 484  
"dental claim," "optometric claim," and "chiropractic claim" have 485  
the same meanings as in section 2305.113 of the Revised Code. 486

(3) "Advanced practice nurse" has the same meaning as in 487  
section 4723.01 of the Revised Code. 488

**Sec. 3701.071.** (A) As used in this section, ~~"nonprofit:~~ 489

(1) "Indigent and uninsured person" has the same meaning as 490  
in section 2305.234 of the Revised Code. 491

(2) "Nonprofit shelter or health care facility" has the same 492  
meaning as in section 2305.234 of the Revised Code means a 493  
charitable nonprofit corporation organized and operated pursuant 494  
to Chapter 1702. of the Revised Code, or any charitable 495  
organization not organized and not operated for profit, that 496  
provides shelter, health care services, or shelter and health care 497  
services to indigent and uninsured persons. "Nonprofit shelter or 498  
health care facility" does not include a hospital, as defined in 499  
section 3727.01 of the Revised Code, a facility licensed under 500  
Chapter 3721. of the Revised Code, or a medical facility that is 501  
operated for profit. 502

(B) A nonprofit shelter or health care facility operating in 503  
this state shall register on the first day of January each year 504  
with the department of health. The immunity provided by division 505  
(~~D~~)(E) of section 2305.234 of the Revised Code is not available to 506  
a nonprofit shelter or health care facility until the shelter or 507  
facility registers with the department in accordance with this 508  
section. 509

(C) A nonprofit shelter or health care facility operating in 510

this state shall keep records of all patients who receive medical, 511  
dental, or other health-related diagnosis, care, or treatment at 512  
the shelter or facility. The department of health shall monitor 513  
the quality of care provided to patients at nonprofit shelters or 514  
health care facilities. The monitoring program may be conducted by 515  
contracting with another entity or through any other method 516  
authorized by law. The department may solicit and accept funds 517  
from private sources to fund the monitoring program. 518

**Sec. 3719.81.** (A) A person may furnish another a sample of 519  
any drug of abuse, or of any drug or pharmaceutical preparation 520  
that would be hazardous to health or safety if used without the 521  
supervision of a licensed health professional authorized to 522  
prescribe drugs, if all of the following apply: 523

(1) The sample is furnished by a manufacturer, manufacturer's 524  
representative, or wholesale dealer in pharmaceuticals to a 525  
licensed health professional authorized to prescribe drugs, or is 526  
furnished by such a professional to a patient for use as 527  
medication; 528

(2) The drug is in the original container in which it was 529  
placed by the manufacturer, and the container is plainly marked as 530  
a sample; 531

(3) Prior to its being furnished, the drug sample has been 532  
stored under the proper conditions to prevent its deterioration or 533  
contamination; 534

(4) If the drug is of a type which deteriorates with time, 535  
the sample container is plainly marked with the date beyond which 536  
the drug sample is unsafe to use, and the date has not expired on 537  
the sample furnished. Compliance with the labeling requirements of 538  
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 539  
21 U.S.C.A. 301, as amended, shall be deemed compliance with this 540

section. 541

(5) The drug is distributed, stored, or discarded in such a 542  
way that the drug sample may not be acquired or used by any 543  
unauthorized person, or by any person, including a child, for whom 544  
it may present a health or safety hazard. 545

(B) Division (A) of this section does not do any of the 546  
following: 547

(1) Apply to or restrict the furnishing of any sample of a 548  
nonnarcotic substance if the substance may, under the "Federal 549  
Food, Drug, and Cosmetic Act" and under the laws of this state, 550  
otherwise be lawfully sold over the counter without a 551  
prescription; 552

(2) Authorize a licensed health professional authorized to 553  
prescribe drugs who is a clinical nurse specialist, certified 554  
nurse-midwife, or certified nurse practitioner, ~~or advanced~~ 555  
~~practice nurse~~ to furnish a sample of a drug that is not a drug 556  
the nurse is authorized to prescribe; 557

(3) Authorize an optometrist to furnish a sample of a drug 558  
that is not a drug the optometrist is authorized to prescribe. 559

(C) The state board of pharmacy shall, in accordance with 560  
Chapter 119. of the Revised Code, adopt rules as necessary to give 561  
effect to this section. 562

**Sec. 4713.02.** (A) There is hereby created the state board of 563  
cosmetology, consisting of all of the following members appointed 564  
by the governor, with the advice and consent of the senate: 565

(1) One person holding a current, valid cosmetologist, 566  
managing cosmetologist, or cosmetology instructor license at the 567  
time of appointment; 568

(2) Two persons holding current, valid managing cosmetologist 569  
licenses and actively engaged in managing beauty salons at the 570

time of appointment;	571
(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;	572 573 574 575 576
(4) One person who represents individuals who teach the theory and practice of a branch of cosmetology at a vocational school;	577 578 579
(5) One owner of a licensed school of cosmetology;	580
(6) One owner of at least five licensed salons;	581
(7) One person who is either <del>an advanced practice nurse approved under section 4723.55 of the Revised Code</del> , a certified nurse practitioner or clinical nurse specialist holding a certificate of authority under section 4723.41 of the Revised Code, or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	582 583 584 585 586 587 588
(8) One person representing the general public.	589
(B) The superintendent of public instruction shall nominate three persons for the governor to choose from when making an appointment under division (A)(4) of this section.	590 591 592
(C) All members shall be at least twenty-five years of age, residents of the state, and citizens of the United States. No more than two members, at any time, shall be graduates of the same school of cosmetology.	593 594 595 596
Except for the initial members appointed under divisions (A)(3) and (4) of this section, terms of office are for five years. The term of the initial member appointed under division (A)(3) of this section shall be three years. The term of the	597 598 599 600

initial member appointed under division (A)(4) of this section 601  
shall be four years. Terms shall commence on the first day of 602  
November and end on the thirty-first day of October. Each member 603  
shall hold office from the date of appointment until the end of 604  
the term for which appointed. In case of a vacancy occurring on 605  
the board, the governor shall, in the same manner prescribed for 606  
the regular appointment to the board, fill the vacancy by 607  
appointing a member. Any member appointed to fill a vacancy 608  
occurring prior to the expiration of the term for which the 609  
member's predecessor was appointed shall hold office for the 610  
remainder of such term. Any member shall continue in office 611  
subsequent to the expiration date of the member's term until the 612  
member's successor takes office, or until a period of sixty days 613  
has elapsed, whichever occurs first. Before entering upon the 614  
discharge of the duties of the office of member, each member shall 615  
take, and file with the secretary of state, the oath of office 616  
required by Section 7 of Article XV, Ohio Constitution. 617

The members of the board shall receive an amount fixed 618  
pursuant to Chapter 124. of the Revised Code per diem for every 619  
meeting of the board which they attend, together with their 620  
necessary expenses, and mileage for each mile necessarily 621  
traveled. 622

The members of the board shall annually elect, from among 623  
their number, a chairperson. 624

The board shall prescribe the duties of its officers and 625  
establish an office at Columbus, Ohio. The board shall keep all 626  
records and files at the office and have the records and files at 627  
all reasonable hours open to public inspection. The board also 628  
shall adopt a seal. 629

**Sec. 4715.42.** (A)(1) As used in this section, "indigent and 630  
uninsured person," ~~"nonprofit shelter or health care facility,"~~ 631

and "operation" have the same meanings as in section 2305.234 of 632  
the Revised Code. 633

(2) For the purposes of this section, a person shall be 634  
considered retired from practice if the person's license has been 635  
surrendered or allowed to expire with the intention of ceasing to 636  
practice as a dentist or dental hygienist for remuneration. 637

(B) The state dental board may issue, without examination, a 638  
volunteer's certificate to a person who is retired from practice 639  
so that the person may provide dental services to indigent and 640  
uninsured persons ~~at nonprofit shelters or health care facilities.~~ 641

(C) An application for a volunteer's certificate shall 642  
include all of the following: 643

(1) A copy of the applicant's degree from dental college or 644  
dental hygiene school. 645

(2) One of the following, as applicable: 646

(a) A copy of the applicant's most recent license to practice 647  
dentistry or dental hygiene issued by a jurisdiction in the United 648  
States that licenses persons to practice dentistry or dental 649  
hygiene. 650

(b) A copy of the applicant's most recent license equivalent 651  
to a license to practice dentistry or dental hygiene in one or 652  
more branches of the United States armed services that the United 653  
States government issued. 654

(3) Evidence of one of the following, as applicable: 655

(a) The applicant has maintained for at least ten years prior 656  
to retirement full licensure in good standing in any jurisdiction 657  
in the United States that licenses persons to practice dentistry 658  
or dental hygiene. 659

(b) The applicant has practiced as a dentist or dental 660

hygienist in good standing for at least ten years prior to 661  
retirement in one or more branches of the United States armed 662  
services. 663

(4) A notarized statement from the applicant, on a form 664  
prescribed by the board, that the applicant will not accept any 665  
form of remuneration for any dental services rendered while in 666  
possession of a volunteer's certificate. 667

(D) The holder of a volunteer's certificate may provide 668  
dental services ~~only on the premises of a nonprofit shelter or~~ 669  
~~health care facility and~~ only to indigent and uninsured persons. 670  
The holder shall not accept any form of remuneration for providing 671  
dental services while in possession of the certificate. Except in 672  
a dental emergency, the holder shall not perform any operation. 673  
The board may revoke a volunteer's certificate on receiving proof 674  
satisfactory to the board that the holder has engaged in practice 675  
in this state outside the scope of the holder's certificate or 676  
that there are grounds for action against the person under section 677  
4715.30 of the Revised Code. 678

(E)(1) A volunteer's certificate shall be valid for a period 679  
of three years, and may be renewed upon the application of the 680  
holder, unless the certificate was previously revoked under 681  
division (D) of this section. The board shall maintain a register 682  
of all persons who hold volunteer's certificates. The board shall 683  
not charge a fee for issuing or renewing a certificate pursuant to 684  
this section. 685

(2) To be eligible for renewal of a volunteer's certificate, 686  
the holder of the certificate shall certify to the board 687  
completion of sixty hours of continuing dental education that 688  
meets the requirements of section 4715.141 of the Revised Code and 689  
the rules adopted under that section, or completion of eighteen 690  
hours of continuing dental hygiene education that meets the 691

requirements of section 4715.25 of the Revised Code and the rules 692  
adopted under that section, as the case may be. The board may not 693  
renew a certificate if the holder has not complied with the 694  
appropriate continuing education requirements. ~~The nonprofit~~ 695  
~~shelter or health care facility in~~ Any entity for which the holder 696  
provides dental services may pay for or reimburse the holder for 697  
any costs incurred in obtaining the required continuing education 698  
credits. 699

(3) The board shall issue to each person who qualifies under 700  
this section for a volunteer's certificate a wallet certificate 701  
and a wall certificate that state that the certificate holder is 702  
authorized to provide dental services pursuant to the laws of this 703  
state. The holder shall keep the wallet certificate on the 704  
holder's person while providing dental services and shall display 705  
the wall certificate prominently ~~in the nonprofit shelter or~~ 706  
~~health care facility~~ at the location where the holder primarily 707  
practices. 708

(4) The holder of a volunteer's certificate issued pursuant 709  
to this section is subject to the immunity provisions in section 710  
2305.234 of the Revised Code. 711

(F) The board shall adopt rules in accordance with Chapter 712  
119. of the Revised Code to administer and enforce this section. 713

**Sec. 4723.01.** As used in this chapter: 714

(A) "Registered nurse" means an individual who holds a 715  
current, valid license issued under this chapter that authorizes 716  
the practice of nursing as a registered nurse. 717

(B) "Practice of nursing as a registered nurse" means 718  
providing to individuals and groups nursing care requiring 719  
specialized knowledge, judgment, and skill derived from the 720  
principles of biological, physical, behavioral, social, and 721



nursing sciences. Such nursing care includes:	722
(1) Identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen;	723 724
(2) Executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions;	725 726
(3) Assessing health status for the purpose of providing nursing care;	727 728
(4) Providing health counseling and health teaching;	729
(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;	730 731 732 733
(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.	734 735
(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities.	736 737
(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.	738 739 740 741
(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.	742 743 744
(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:	745 746 747 748 749 750
(1) Observation, patient teaching, and care in a diversity of	751

health care settings;	752
(2) Contributions to the planning, implementation, and evaluation of nursing;	753 754
(3) Administration of medications and treatments authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, except that administration of intravenous therapy shall be performed only in accordance with section 4723.17 or 4723.171 of the Revised Code. Medications may be administered by a licensed practical nurse upon proof of completion of a course in medication administration approved by the board of nursing.	755 756 757 758 759 760 761 762
(4) Administration to an adult of intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, on the condition that the licensed practical nurse is authorized under section 4723.17 or 4723.171 of the Revised Code to perform intravenous therapy and performs intravenous therapy only in accordance with those sections.	763 764 765 766 767 768 769
(G) "Certified registered nurse anesthetist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified registered nurse anesthetist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.	770 771 772 773 774 775
(H) "Clinical nurse specialist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a clinical nurse specialist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.	776 777 778 779 780
(I) "Certified nurse-midwife" means a registered nurse who holds a valid certificate of authority issued under this chapter	781 782

that authorizes the practice of nursing as a certified 783  
nurse-midwife in accordance with section 4723.43 of the Revised 784  
Code and rules adopted by the board of nursing. 785

(J) "Certified nurse practitioner" means a registered nurse 786  
who holds a valid certificate of authority issued under this 787  
chapter that authorizes the practice of nursing as a certified 788  
nurse practitioner in accordance with section 4723.43 of the 789  
Revised Code and rules adopted by the board of nursing. 790

(K) "Physician" means an individual authorized under Chapter 791  
4731. of the Revised Code to practice medicine and surgery or 792  
osteopathic medicine and surgery. 793

(L) "Collaboration" or "collaborating" means the following: 794

(1) In the case of a clinical nurse specialist, except as 795  
provided in division (L)(3) of this section, or a certified nurse 796  
practitioner, that one or more podiatrists acting within the scope 797  
of practice of podiatry in accordance with section 4731.51 of the 798  
Revised Code and with whom the nurse has entered into a standard 799  
care arrangement or one or more physicians with whom the nurse has 800  
entered into a standard care arrangement are continuously 801  
available to communicate with the clinical nurse specialist or 802  
certified nurse practitioner either in person or by radio, 803  
telephone, or other form of telecommunication; 804

(2) In the case of a certified nurse-midwife, that one or 805  
more physicians with whom the certified nurse-midwife has entered 806  
into a standard care arrangement are continuously available to 807  
communicate with the certified nurse-midwife either in person or 808  
by radio, telephone, or other form of telecommunication; 809

(3) In the case of a clinical nurse specialist who practices 810  
the nursing specialty of mental health or psychiatric mental 811  
health without being authorized to prescribe drugs and therapeutic 812  
devices, that one or more physicians are continuously available to 813

communicate with the nurse either in person or by radio, 814  
telephone, or other form of telecommunication. 815

(M) "Supervision," as it pertains to a certified registered 816  
nurse anesthetist, means that the certified registered nurse 817  
anesthetist is under the direction of a podiatrist acting within 818  
the podiatrist's scope of practice in accordance with section 819  
4731.51 of the Revised Code, a dentist acting within the dentist's 820  
scope of practice in accordance with Chapter 4715. of the Revised 821  
Code, or a physician, and, when administering anesthesia, the 822  
certified registered nurse anesthetist is in the immediate 823  
presence of the podiatrist, dentist, or physician. 824

(N) "Standard care arrangement," ~~except as it pertains to an~~ 825  
~~advanced practice nurse,~~ means a written, formal guide for 826  
planning and evaluating a patient's health care that is developed 827  
by one or more collaborating physicians or podiatrists and a 828  
clinical nurse specialist, certified nurse-midwife, or certified 829  
nurse practitioner and meets the requirements of section 4723.431 830  
of the Revised Code. 831

(O) "Advanced practice nurse," ~~until three years and eight~~ 832  
~~months after May 17, 2000,~~ means a ~~registered nurse who is~~ 833  
~~approved by the board of nursing under section 4723.55 of the~~ 834  
~~Revised Code to practice as an advanced practice nurse~~ certified 835  
registered nurse anesthetist, clinical nurse specialist, certified 836  
nurse-midwife, or certified nurse practitioner. 837

(P) "Dialysis care" means the care and procedures that a 838  
dialysis technician is authorized to provide and perform, as 839  
specified in section 4723.72 of the Revised Code. 840

(Q) "Dialysis technician" means an individual who holds a 841  
current, valid certificate or temporary certificate issued under 842  
this chapter that authorizes the individual to practice as a 843  
dialysis technician in accordance with section 4723.72 of the 844

Revised Code. 845

(R) "Certified community health worker" means an individual 846  
who holds a current, valid certificate as a community health 847  
worker issued by the board of nursing under section 4723.85 of the 848  
Revised Code. 849

**Sec. 4723.03.** (A) No person shall engage in the practice of 850  
nursing as a registered nurse, represent the person as being a 851  
registered nurse, or use the title "registered nurse," the 852  
initials "R.N.," or any other title implying that the person is a 853  
registered nurse, for a fee, salary, or other consideration, or as 854  
a volunteer, without holding a current, valid license as a 855  
registered nurse under this chapter. 856

(B) No person shall engage in the practice of nursing as a 857  
licensed practical nurse, represent the person as being a licensed 858  
practical nurse, or use the title "licensed practical nurse," the 859  
initials "L.P.N.," or any other title implying that the person is 860  
a licensed practical nurse, for a fee, salary, or other 861  
consideration, or as a volunteer, without holding a current, valid 862  
license as a practical nurse under this chapter. 863

(C) No person shall use the titles or initials "graduate 864  
nurse," "G.N.," "professional nurse," "P.N.," "graduate practical 865  
nurse," "G.P.N.," "practical nurse," "P.N.," "trained nurse," 866  
"T.N.," or any other statement, title, or initials that would 867  
imply or represent to the public that the person is authorized to 868  
practice nursing in this state, except as follows: 869

(1) A person licensed under this chapter to practice nursing 870  
as a registered nurse may use that title and the initials "R.N.;" 871

(2) A person licensed under this chapter to practice nursing 872  
as a licensed practical nurse may use that title and the initials 873  
"L.P.N.;" 874

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

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

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

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

(7) A person authorized under this chapter to practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may use the title "advanced practice nurse," the initials "A.P.N.," and any other title or initials approved by the board.

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

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

**Sec. 4723.28.** (A) The board of nursing, by a vote of a

quorum, may revoke or may refuse to grant a nursing license, 905  
certificate of authority, or dialysis technician certificate to a 906  
person found by the board to have committed fraud in passing an 907  
examination required to obtain the license, certificate of 908  
authority, or dialysis technician certificate or to have committed 909  
fraud, misrepresentation, or deception in applying for or securing 910  
any nursing license, certificate of authority, or dialysis 911  
technician certificate issued by the board. 912

(B) Subject to division (N) of this section, the board of 913  
nursing, by a vote of a quorum, may impose one or more of the 914  
following sanctions: deny, revoke, suspend, or place restrictions 915  
on any nursing license, certificate of authority, or dialysis 916  
technician certificate issued by the board; reprimand or otherwise 917  
discipline a holder of a nursing license, certificate of 918  
authority, or dialysis technician certificate; or impose a fine of 919  
not more than five hundred dollars per violation. The sanctions 920  
may be imposed for any of the following: 921

(1) Denial, revocation, suspension, or restriction of 922  
authority to practice a health care occupation, including nursing 923  
or practice as a dialysis technician, for any reason other than a 924  
failure to renew, in Ohio or another state or jurisdiction; 925

(2) Engaging in the practice of nursing or engaging in 926  
practice as a dialysis technician, having failed to renew a 927  
nursing license or dialysis technician certificate issued under 928  
this chapter, or while a nursing license or dialysis technician 929  
certificate is under suspension; 930

(3) Conviction of, a plea of guilty to, a judicial finding of 931  
guilt of, a judicial finding of guilt resulting from a plea of no 932  
contest to, or a judicial finding of eligibility for intervention 933  
in lieu of conviction for, a misdemeanor committed in the course 934  
of practice; 935

(4) Conviction of, a plea of guilty to, a judicial finding of 936  
guilt of, a judicial finding of guilt resulting from a plea of no 937  
contest to, or a judicial finding of eligibility for intervention 938  
in lieu of conviction for, any felony or of any crime involving 939  
gross immorality or moral turpitude; 940

(5) Selling, giving away, or administering drugs or 941  
therapeutic devices for other than legal and legitimate 942  
therapeutic purposes; or conviction of, a plea of guilty to, a 943  
judicial finding of guilt of, a judicial finding of guilt 944  
resulting from a plea of no contest to, or a judicial finding of 945  
eligibility for intervention in lieu of conviction for, violating 946  
any municipal, state, county, or federal drug law; 947

(6) Conviction of, a plea of guilty to, a judicial finding of 948  
guilt of, a judicial finding of guilt resulting from a plea of no 949  
contest to, or a judicial finding of eligibility for intervention 950  
in lieu of conviction for, an act in another jurisdiction that 951  
would constitute a felony or a crime of moral turpitude in Ohio; 952

(7) Conviction of, a plea of guilty to, a judicial finding of 953  
guilt of, a judicial finding of guilt resulting from a plea of no 954  
contest to, or a judicial finding of eligibility for intervention 955  
in lieu of conviction for, an act in the course of practice in 956  
another jurisdiction that would constitute a misdemeanor in Ohio; 957

(8) Self-administering or otherwise taking into the body any 958  
dangerous drug, as defined in section 4729.01 of the Revised Code, 959  
in any way not in accordance with a legal, valid prescription 960  
issued for that individual; 961

(9) Habitual indulgence in the use of controlled substances, 962  
other habit-forming drugs, or alcohol or other chemical substances 963  
to an extent that impairs ability to practice; 964

(10) Impairment of the ability to practice according to 965  
acceptable and prevailing standards of safe nursing care because 966



of habitual or excessive use of drugs, alcohol, or other chemical substances that impair the ability to practice;	967 968
(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;	969 970 971
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	972 973
(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	974 975 976
(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.	977 978 979 980 981
(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;	982 983 984
(16) Violation of this chapter or any rules adopted under it;	985
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	986 987
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	988 989 990
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	991 992
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	993 994 995
(21) In the case of a licensed practical nurse, engaging in	996

activities that exceed the practice of nursing as a licensed 997  
practical nurse; 998

(22) In the case of a dialysis technician, engaging in 999  
activities that exceed those permitted under section 4723.72 of 1000  
the Revised Code; 1001

(23) Aiding and abetting a person in that person's practice 1002  
of nursing without a license or practice as a dialysis technician 1003  
without a certificate issued under this chapter; 1004

(24) In the case of a certified registered nurse anesthetist, 1005  
clinical nurse specialist, certified nurse-midwife, or certified 1006  
nurse practitioner, ~~or advanced practice nurse~~, except as provided 1007  
in division (M) of this section, either of the following: 1008

(a) Waiving the payment of all or any part of a deductible or 1009  
copayment that a patient, pursuant to a health insurance or health 1010  
care policy, contract, or plan that covers such nursing services, 1011  
would otherwise be required to pay if the waiver is used as an 1012  
enticement to a patient or group of patients to receive health 1013  
care services from that provider; 1014

(b) Advertising that the nurse will waive the payment of all 1015  
or any part of a deductible or copayment that a patient, pursuant 1016  
to a health insurance or health care policy, contract, or plan 1017  
that covers such nursing services, would otherwise be required to 1018  
pay. 1019

(25) Failure to comply with the terms and conditions of 1020  
participation in the chemical dependency monitoring program 1021  
established under section 4723.35 of the Revised Code; 1022

(26) Failure to comply with the terms and conditions required 1023  
under the practice intervention and improvement program 1024  
established under section 4723.282 of the Revised Code; 1025

(27) In the case of a certified registered nurse anesthetist, 1026

clinical nurse specialist, certified nurse-midwife, or certified	1027
nurse practitioner:	1028
(a) Engaging in activities that exceed those permitted for	1029
the nurse's nursing specialty under section 4723.43 of the Revised	1030
Code;	1031
(b) Failure to meet the quality assurance standards	1032
established under section 4723.07 of the Revised Code.	1033
(28) In the case of a clinical nurse specialist, certified	1034
nurse-midwife, or certified nurse practitioner, failure to	1035
maintain a standard care arrangement in accordance with section	1036
4723.431 of the Revised Code or to practice in accordance with the	1037
standard care arrangement;	1038
(29) In the case of a clinical nurse specialist, certified	1039
nurse-midwife, or certified nurse practitioner who holds a	1040
certificate to prescribe issued under section 4723.48 of the	1041
Revised Code, failure to prescribe drugs and therapeutic devices	1042
in accordance with section 4723.481 of the Revised Code;	1043
(30) Prescribing any drug or device to perform or induce an	1044
abortion, or otherwise performing or inducing an abortion;	1045
(31) Failure to establish and maintain professional	1046
boundaries with a patient, as specified in rules adopted under	1047
section 4723.07 of the Revised Code;	1048
(32) Regardless of whether the contact or verbal behavior is	1049
consensual, engaging with a patient other than the spouse of the	1050
registered nurse, licensed practical nurse, or dialysis technician	1051
in any of the following:	1052
(a) Sexual contact, as defined in section 2907.01 of the	1053
Revised Code;	1054
(b) Verbal behavior that is sexually demeaning to the patient	1055
or may be reasonably interpreted by the patient as sexually	1056

demeaning. 1057

(33) Assisting suicide as defined in section 3795.01 of the 1058  
Revised Code. 1059

(C) Disciplinary actions taken by the board under divisions 1060  
(A) and (B) of this section shall be taken pursuant to an 1061  
adjudication conducted under Chapter 119. of the Revised Code, 1062  
except that in lieu of a hearing, the board may enter into a 1063  
consent agreement with an individual to resolve an allegation of a 1064  
violation of this chapter or any rule adopted under it. A consent 1065  
agreement, when ratified by a vote of a quorum, shall constitute 1066  
the findings and order of the board with respect to the matter 1067  
addressed in the agreement. If the board refuses to ratify a 1068  
consent agreement, the admissions and findings contained in the 1069  
agreement shall be of no effect. 1070

(D) The hearings of the board shall be conducted in 1071  
accordance with Chapter 119. of the Revised Code, the board may 1072  
appoint a hearing examiner, as provided in section 119.09 of the 1073  
Revised Code, to conduct any hearing the board is authorized to 1074  
hold under Chapter 119. of the Revised Code. 1075

In any instance in which the board is required under Chapter 1076  
119. of the Revised Code to give notice of an opportunity for a 1077  
hearing and the applicant or license holder does not make a timely 1078  
request for a hearing in accordance with section 119.07 of the 1079  
Revised Code, the board is not required to hold a hearing, but may 1080  
adopt, by a vote of a quorum, a final order that contains the 1081  
board's findings. In the final order, the board may order any of 1082  
the sanctions listed in division (A) or (B) of this section. 1083

(E) If a criminal action is brought against a registered 1084  
nurse, licensed practical nurse, or dialysis technician for an act 1085  
or crime described in divisions (B)(3) to (7) of this section and 1086  
the action is dismissed by the trial court other than on the 1087

merits, the board shall conduct an adjudication to determine 1088  
whether the registered nurse, licensed practical nurse, or 1089  
dialysis technician committed the act on which the action was 1090  
based. If the board determines on the basis of the adjudication 1091  
that the registered nurse, licensed practical nurse, or dialysis 1092  
technician committed the act, or if the registered nurse, licensed 1093  
practical nurse, or dialysis technician fails to participate in 1094  
the adjudication, the board may take action as though the 1095  
registered nurse, licensed practical nurse, or dialysis technician 1096  
had been convicted of the act. 1097

If the board takes action on the basis of a conviction, plea, 1098  
or a judicial finding as described in divisions (B)(3) to (7) of 1099  
this section that is overturned on appeal, the registered nurse, 1100  
licensed practical nurse, or dialysis technician may, on 1101  
exhaustion of the appeal process, petition the board for 1102  
reconsideration of its action. On receipt of the petition and 1103  
supporting court documents, the board shall temporarily rescind 1104  
its action. If the board determines that the decision on appeal 1105  
was a decision on the merits, it shall permanently rescind its 1106  
action. If the board determines that the decision on appeal was 1107  
not a decision on the merits, it shall conduct an adjudication to 1108  
determine whether the registered nurse, licensed practical nurse, 1109  
or dialysis technician committed the act on which the original 1110  
conviction, plea, or judicial finding was based. If the board 1111  
determines on the basis of the adjudication that the registered 1112  
nurse, licensed practical nurse, or dialysis technician committed 1113  
such act, or if the registered nurse, licensed practical nurse, or 1114  
dialysis technician does not request an adjudication, the board 1115  
shall reinstate its action; otherwise, the board shall permanently 1116  
rescind its action. 1117

Notwithstanding the provision of division (C)(2) of section 1118  
2953.32 of the Revised Code specifying that if records pertaining 1119

to a criminal case are sealed under that section the proceedings 1120  
in the case shall be deemed not to have occurred, sealing of the 1121  
records of a conviction on which the board has based an action 1122  
under this section shall have no effect on the board's action or 1123  
any sanction imposed by the board under this section. 1124

The board shall not be required to seal, destroy, redact, or 1125  
otherwise modify its records to reflect the court's sealing of 1126  
conviction records. 1127

(F) The board may investigate an individual's criminal 1128  
background in performing its duties under this section. 1129

(G) During the course of an investigation conducted under 1130  
this section, the board may compel any registered nurse, licensed 1131  
practical nurse, or dialysis technician or applicant under this 1132  
chapter to submit to a mental or physical examination, or both, as 1133  
required by the board and at the expense of the individual, if the 1134  
board finds reason to believe that the individual under 1135  
investigation may have a physical or mental impairment that may 1136  
affect the individual's ability to provide safe nursing care. 1137  
Failure of any individual to submit to a mental or physical 1138  
examination when directed constitutes an admission of the 1139  
allegations, unless the failure is due to circumstances beyond the 1140  
individual's control, and a default and final order may be entered 1141  
without the taking of testimony or presentation of evidence. 1142

If the board finds that an individual is impaired, the board 1143  
shall require the individual to submit to care, counseling, or 1144  
treatment approved or designated by the board, as a condition for 1145  
initial, continued, reinstated, or renewed authority to practice. 1146  
The individual shall be afforded an opportunity to demonstrate to 1147  
the board that the individual can begin or resume the individual's 1148  
occupation in compliance with acceptable and prevailing standards 1149  
of care under the provisions of the individual's authority to 1150  
practice. 1151

For purposes of this division, any registered nurse, licensed 1152  
practical nurse, or dialysis technician or applicant under this 1153  
chapter shall be deemed to have given consent to submit to a 1154  
mental or physical examination when directed to do so in writing 1155  
by the board, and to have waived all objections to the 1156  
admissibility of testimony or examination reports that constitute 1157  
a privileged communication. 1158

(H) The board shall investigate evidence that appears to show 1159  
that any person has violated any provision of this chapter or any 1160  
rule of the board. Any person may report to the board any 1161  
information the person may have that appears to show a violation 1162  
of any provision of this chapter or rule of the board. In the 1163  
absence of bad faith, any person who reports such information or 1164  
who testifies before the board in any adjudication conducted under 1165  
Chapter 119. of the Revised Code shall not be liable for civil 1166  
damages as a result of the report or testimony. 1167

(I) All of the following apply under this chapter with 1168  
respect to the confidentiality of information: 1169

(1) Information received by the board pursuant to an 1170  
investigation is confidential and not subject to discovery in any 1171  
civil action, except that the board may disclose information to 1172  
law enforcement officers and government entities investigating a 1173  
registered nurse, licensed practical nurse, or dialysis technician 1174  
or a person who may have engaged in the unauthorized practice of 1175  
nursing. No law enforcement officer or government entity with 1176  
knowledge of any information disclosed by the board pursuant to 1177  
this division shall divulge the information to any other person or 1178  
government entity except for the purpose of an adjudication by a 1179  
court or licensing or registration board or officer to which the 1180  
person to whom the information relates is a party. 1181

(2) If an investigation requires a review of patient records, 1182

the investigation and proceeding shall be conducted in such a 1183  
manner as to protect patient confidentiality. 1184

(3) All adjudications and investigations of the board shall 1185  
be considered civil actions for the purposes of section 2305.252 1186  
of the Revised Code. 1187

(4) Any board activity that involves continued monitoring of 1188  
an individual as part of or following any disciplinary action 1189  
taken under this section shall be conducted in a manner that 1190  
maintains the individual's confidentiality. Information received 1191  
or maintained by the board with respect to the board's monitoring 1192  
activities is confidential and not subject to discovery in any 1193  
civil action. 1194

(J) Any action taken by the board under this section 1195  
resulting in a suspension from practice shall be accompanied by a 1196  
written statement of the conditions under which the person may be 1197  
reinstated to practice. 1198

(K) When the board refuses to grant a license or certificate 1199  
to an applicant, revokes a license or certificate, or refuses to 1200  
reinstate a license or certificate, the board may specify that its 1201  
action is permanent. An individual subject to permanent action 1202  
taken by the board is forever ineligible to hold a license or 1203  
certificate of the type that was refused or revoked and the board 1204  
shall not accept from the individual an application for 1205  
reinstatement of the license or certificate or for a new license 1206  
or certificate. 1207

(L) No unilateral surrender of a nursing license, certificate 1208  
of authority, or dialysis technician certificate issued under this 1209  
chapter shall be effective unless accepted by majority vote of the 1210  
board. No application for a nursing license, certificate of 1211  
authority, or dialysis technician certificate issued under this 1212  
chapter may be withdrawn without a majority vote of the board. The 1213



board's jurisdiction to take disciplinary action under this 1214  
section is not removed or limited when an individual has a license 1215  
or certificate classified as inactive or fails to renew a license 1216  
or certificate. 1217

(M) Sanctions shall not be imposed under division (B)(24) of 1218  
this section against any licensee who waives deductibles and 1219  
copayments as follows: 1220

(1) In compliance with the health benefit plan that expressly 1221  
allows such a practice. Waiver of the deductibles or copayments 1222  
shall be made only with the full knowledge and consent of the plan 1223  
purchaser, payer, and third-party administrator. Documentation of 1224  
the consent shall be made available to the board upon request. 1225

(2) For professional services rendered to any other person 1226  
licensed pursuant to this chapter to the extent allowed by this 1227  
chapter and the rules of the board. 1228

(N)(1) Any person who enters a prelicensure nursing education 1229  
program on or after June 1, 2003, and who subsequently applies 1230  
under division (A) of section 4723.09 of the Revised Code for 1231  
licensure to practice as a registered nurse or as a licensed 1232  
practical nurse and any person who applies under division (B) of 1233  
that section for license by endorsement to practice nursing as a 1234  
registered nurse or as a licensed practical nurse shall submit a 1235  
request to the bureau of criminal identification and investigation 1236  
for the bureau to conduct a criminal records check of the 1237  
applicant and to send the results to the board, in accordance with 1238  
section 4723.09 of the Revised Code. 1239

The board shall refuse to grant a license to practice nursing 1240  
as a registered nurse or as a licensed practical nurse under 1241  
section 4723.09 of the Revised Code to a person who entered a 1242  
prelicensure nursing education program on or after June 1, 2003, 1243  
and applied under division (A) of section 4723.09 of the Revised 1244

Code for the license or a person who applied under division (B) of 1245  
that section for the license, if the criminal records check 1246  
performed in accordance with division (C) of that section 1247  
indicates that the person has pleaded guilty to, been convicted 1248  
of, or has had a judicial finding of guilt for violating section 1249  
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 1250  
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 1251  
substantially similar law of another state, the United States, or 1252  
another country. 1253

(2) Any person who enters a dialysis training program on or 1254  
after June 1, 2003, and who subsequently applies for a certificate 1255  
to practice as a dialysis technician shall submit a request to the 1256  
bureau of criminal identification and investigation for the bureau 1257  
to conduct a criminal records check of the applicant and to send 1258  
the results to the board, in accordance with section 4723.75 of 1259  
the Revised Code. 1260

The board shall refuse to issue a certificate to practice as 1261  
a dialysis technician under section 4723.75 of the Revised Code to 1262  
a person who entered a dialysis training program on or after June 1263  
1, 2003, and whose criminal records check performed in accordance 1264  
with division (C) of that section indicates that the person has 1265  
pleaded guilty to, been convicted of, or has had a judicial 1266  
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 1267  
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 1268  
2911.11 of the Revised Code or a substantially similar law of 1269  
another state, the United States, or another country. 1270

**Sec. 4723.44.** (A) No person shall do any of the following 1271  
unless the person holds a current, valid certificate of authority 1272  
to practice nursing as a certified registered nurse anesthetist, 1273  
clinical nurse specialist, certified nurse-midwife, or certified 1274  
nurse practitioner issued by the board of nursing under this 1275

chapter:	1276
(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;	1277 1278 1279 1280
(2) Represent the person as being a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;	1281 1282 1283
(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;	1284 1285 1286
<u>(4) Represent the person as being an advanced practice nurse;</u>	1287
<u>(5) Use any title or initials implying that the person is an advanced practice nurse.</u>	1288 1289
(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.	1290 1291 1292 1293 1294 1295 1296 1297 1298
(C) No certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall do any of the following:	1299 1300 1301
(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;	1302 1303 1304 1305

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

(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.," 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;

(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 abortion, or otherwise Perform or induce an abortion.

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

(E) A certificate certified by the executive director of the board, under the official seal of the board, to the effect that it

appears from the records that no certificate of authority to 1336  
practice nursing as a certified registered nurse anesthetist, 1337  
clinical nurse specialist, certified nurse-midwife, or certified 1338  
nurse practitioner has been issued to any person specified 1339  
therein, or that a certificate, if issued, has been revoked or 1340  
suspended, shall be received as prima-facie evidence of the record 1341  
in any court or before any officer of the state. 1342

**Sec. 4723.48.** (A) A clinical nurse specialist, certified 1343  
nurse-midwife, or certified nurse practitioner seeking authority 1344  
to prescribe drugs and therapeutic devices shall file with the 1345  
board of nursing a written application for a certificate to 1346  
prescribe. The board of nursing shall issue a certificate to 1347  
prescribe to each applicant who meets the requirements specified 1348  
in section 4723.482 or 4723.484 of the Revised Code. 1349

Except as provided in division (B) of this section, the 1350  
initial certificate to prescribe that the board issues to an 1351  
applicant shall be issued as an externship certificate. Under an 1352  
externship certificate, the nurse may obtain experience in 1353  
prescribing drugs and therapeutic devices by participating in an 1354  
externship that evaluates the nurse's competence, knowledge, and 1355  
skill in pharmacokinetic principles and their clinical application 1356  
to the specialty being practiced. During the externship, the nurse 1357  
may prescribe drugs and therapeutic devices only when one or more 1358  
physicians are providing supervision in accordance with rules 1359  
adopted under section 4723.50 of the Revised Code. 1360

After completing the externship, the holder of an externship 1361  
certificate may apply for a new certificate to prescribe. On 1362  
receipt of the new certificate, the nurse may prescribe drugs and 1363  
therapeutic devices in collaboration with one or more physicians 1364  
or podiatrists. 1365

(B) In the case of ~~an advanced practice nurse~~ an applicant 1366

who on May 17, 2000, ~~is~~ was approved under section 4723.56 of the  
Revised Code to prescribe drugs and therapeutic devices, the  
initial certificate to prescribe that the board issues to the  
~~nurse 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 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, evidence of successfully completing the  
instruction in advanced pharmacology and related topics specified  
in division (B) of this section;

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

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

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

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

filed.	1397
(2) The instruction must be obtained through a course of study consisting of planned classroom and clinical study that is approved by the board of nursing in accordance with standards established in rules adopted under section 4723.50 of the Revised Code.	1398 1399 1400 1401 1402
(3) The content of the instruction must be specific to the applicant's nursing specialty and include all of the following:	1403 1404
(a) A minimum of thirty contact hours of training in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in the prevention of illness and maintenance of health;	1405 1406 1407 1408
(b) Training in the fiscal and ethical implications of prescribing drugs and therapeutic devices;	1409 1410
(c) Training in the state and federal laws that apply to the authority to prescribe;	1411 1412
(d) Any additional training required pursuant to rules adopted under section 4723.50 of the Revised Code.	1413 1414
<b>Sec. 4729.01.</b> As used in this chapter:	1415
(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.	1416 1417 1418 1419
(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:	1420 1421 1422 1423 1424
(1) Interpreting prescriptions;	1425

(2) Compounding or dispensing drugs and dispensing drug therapy related devices;	1426 1427
(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;	1428 1429 1430 1431 1432
(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;	1433 1434 1435
(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;	1436 1437 1438 1439
(6) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	1440 1441 1442
(7) Acting pursuant to a consult agreement with a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, if an agreement has been established with the physician;	1443 1444 1445 1446
(8) Administering the adult immunizations specified in section 4729.41 of the Revised Code, if the pharmacist has met the requirements of that section.	1447 1448 1449
(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:	1450 1451 1452
(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;	1453 1454
(2) Pursuant to the modification of a prescription made in	1455



accordance with a consult agreement; 1456

(3) As an incident to research, teaching activities, or 1457  
chemical analysis; 1458

(4) In anticipation of prescription drug orders based on 1459  
routine, regularly observed dispensing patterns. 1460

(D) "Consult agreement" means an agreement to manage an 1461  
individual's drug therapy that has been entered into by a 1462  
pharmacist and a physician authorized under Chapter 4731. of the 1463  
Revised Code to practice medicine and surgery or osteopathic 1464  
medicine and surgery. 1465

(E) "Drug" means: 1466

(1) Any article recognized in the United States pharmacopoeia 1467  
and national formulary, or any supplement to them, intended for 1468  
use in the diagnosis, cure, mitigation, treatment, or prevention 1469  
of disease in humans or animals; 1470

(2) Any other article intended for use in the diagnosis, 1471  
cure, mitigation, treatment, or prevention of disease in humans or 1472  
animals; 1473

(3) Any article, other than food, intended to affect the 1474  
structure or any function of the body of humans or animals; 1475

(4) Any article intended for use as a component of any 1476  
article specified in division ~~(C)~~(E)(1), (2), or (3) of this 1477  
section; but does not include devices or their components, parts, 1478  
or accessories. 1479

(F) "Dangerous drug" means any of the following: 1480

(1) Any drug to which either of the following applies: 1481

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 1482  
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is 1483  
required to bear a label containing the legend "Caution: Federal 1484

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;

(b) Under Chapter 3715. or 3719. of the Revised Code, the  
drug may be dispensed only upon a prescription.

(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;

(3) Any drug intended for administration by injection into  
the human body other than through a natural orifice of the human  
body.

(G) "Federal drug abuse control laws" has the same meaning as  
in section 3719.01 of the Revised Code.

(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.

(I) "Licensed health professional authorized to prescribe  
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;	1515
<del>(4)</del> (3) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;	1516 1517 1518
<del>(5)</del> (4) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	1519 1520 1521
<del>(6)</del> (5) A veterinarian licensed under Chapter 4741. of the Revised Code.	1522 1523
(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.	1524 1525 1526 1527
(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.	1528 1529 1530
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	1531 1532
(M) "Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration. Mere advice or instructions regarding administration do not constitute control or establish responsibility.	1533 1534 1535 1536 1537
(N) "Price information" means the price charged for a prescription for a particular drug product and, in an easily understandable manner, all of the following:	1538 1539 1540
(1) The proprietary name of the drug product;	1541
(2) The established (generic) name of the drug product;	1542
(3) The strength of the drug product if the product contains a single active ingredient or if the drug product contains more	1543 1544

than one active ingredient and a relevant strength can be 1545  
associated with the product without indicating each active 1546  
ingredient. The established name and quantity of each active 1547  
ingredient are required if such a relevant strength cannot be so 1548  
associated with a drug product containing more than one 1549  
ingredient. 1550

(4) The dosage form; 1551

(5) The price charged for a specific quantity of the drug 1552  
product. The stated price shall include all charges to the 1553  
consumer, including, but not limited to, the cost of the drug 1554  
product, professional fees, handling fees, if any, and a statement 1555  
identifying professional services routinely furnished by the 1556  
pharmacy. Any mailing fees and delivery fees may be stated 1557  
separately without repetition. The information shall not be false 1558  
or misleading. 1559

(O) "Wholesale distributor of dangerous drugs" means a person 1560  
engaged in the sale of dangerous drugs at wholesale and includes 1561  
any agent or employee of such a person authorized by the person to 1562  
engage in the sale of dangerous drugs at wholesale. 1563

(P) "Manufacturer of dangerous drugs" means a person, other 1564  
than a pharmacist, who manufactures dangerous drugs and who is 1565  
engaged in the sale of those dangerous drugs within this state. 1566

(Q) "Terminal distributor of dangerous drugs" means a person 1567  
who is engaged in the sale of dangerous drugs at retail, or any 1568  
person, other than a wholesale distributor or a pharmacist, who 1569  
has possession, custody, or control of dangerous drugs for any 1570  
purpose other than for that person's own use and consumption, and 1571  
includes pharmacies, hospitals, nursing homes, and laboratories 1572  
and all other persons who procure dangerous drugs for sale or 1573  
other distribution by or under the supervision of a pharmacist or 1574  
licensed health professional authorized to prescribe drugs. 1575

(R) "Promote to the public" means disseminating a 1576  
representation to the public in any manner or by any means, other 1577  
than by labeling, for the purpose of inducing, or that is likely 1578  
to induce, directly or indirectly, the purchase of a dangerous 1579  
drug at retail. 1580

(S) "Person" includes any individual, partnership, 1581  
association, limited liability company, or corporation, the state, 1582  
any political subdivision of the state, and any district, 1583  
department, or agency of the state or its political subdivisions. 1584

(T) "Finished dosage form" has the same meaning as in section 1585  
3715.01 of the Revised Code. 1586

(U) "Generically equivalent drug" has the same meaning as in 1587  
section 3715.01 of the Revised Code. 1588

(V) "Animal shelter" means a facility operated by a humane 1589  
society or any society organized under Chapter 1717. of the 1590  
Revised Code or a dog pound operated pursuant to Chapter 955. of 1591  
the Revised Code. 1592

(W) "Food" has the same meaning as in section 3715.01 of the 1593  
Revised Code. 1594

**Sec. 4731.22.** (A) The state medical board, by an affirmative 1595  
vote of not fewer than six of its members, may revoke or may 1596  
refuse to grant a certificate to a person found by the board to 1597  
have committed fraud during the administration of the examination 1598  
for a certificate to practice or to have committed fraud, 1599  
misrepresentation, or deception in applying for or securing any 1600  
certificate to practice or certificate of registration issued by 1601  
the board. 1602

(B) The board, by an affirmative vote of not fewer than six 1603  
members, shall, to the extent permitted by law, limit, revoke, or 1604  
suspend an individual's certificate to practice, refuse to 1605

register an individual, refuse to reinstate a certificate, or 1606  
reprimand or place on probation the holder of a certificate for 1607  
one or more of the following reasons: 1608

(1) Permitting one's name or one's certificate to practice or 1609  
certificate of registration to be used by a person, group, or 1610  
corporation when the individual concerned is not actually 1611  
directing the treatment given; 1612

(2) Failure to maintain minimal standards applicable to the 1613  
selection or administration of drugs, or failure to employ 1614  
acceptable scientific methods in the selection of drugs or other 1615  
modalities for treatment of disease; 1616

(3) Selling, giving away, personally furnishing, prescribing, 1617  
or administering drugs for other than legal and legitimate 1618  
therapeutic purposes or a plea of guilty to, a judicial finding of 1619  
guilt of, or a judicial finding of eligibility for intervention in 1620  
lieu of conviction of, a violation of any federal or state law 1621  
regulating the possession, distribution, or use of any drug; 1622

(4) Willfully betraying a professional confidence. 1623

For purposes of this division, "willfully betraying a 1624  
professional confidence" does not include providing any 1625  
information, documents, or reports to a child fatality review 1626  
board under sections 307.621 to 307.629 of the Revised Code and 1627  
does not include the making of a report of an employee's use of a 1628  
drug of abuse, or a report of a condition of an employee other 1629  
than one involving the use of a drug of abuse, to the employer of 1630  
the employee as described in division (B) of section 2305.33 of 1631  
the Revised Code. Nothing in this division affects the immunity 1632  
from civil liability conferred by that section upon a physician 1633  
who makes either type of report in accordance with division (B) of 1634  
that section. As used in this division, "employee," "employer," 1635  
and "physician" have the same meanings as in section 2305.33 of 1636

the Revised Code.	1637
(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.	1638 1639 1640 1641 1642 1643 1644
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.	1645 1646 1647 1648 1649 1650 1651 1652
(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;	1653 1654 1655 1656
(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;	1657 1658 1659 1660
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	1661 1662 1663
(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;	1664 1665 1666
(10) Commission of an act that constitutes a felony in this	1667

state, regardless of the jurisdiction in which the act was 1668  
committed; 1669

(11) A plea of guilty to, a judicial finding of guilt of, or 1670  
a judicial finding of eligibility for intervention in lieu of 1671  
conviction for, a misdemeanor committed in the course of practice; 1672

(12) Commission of an act in the course of practice that 1673  
constitutes a misdemeanor in this state, regardless of the 1674  
jurisdiction in which the act was committed; 1675

(13) A plea of guilty to, a judicial finding of guilt of, or 1676  
a judicial finding of eligibility for intervention in lieu of 1677  
conviction for, a misdemeanor involving moral turpitude; 1678

(14) Commission of an act involving moral turpitude that 1679  
constitutes a misdemeanor in this state, regardless of the 1680  
jurisdiction in which the act was committed; 1681

(15) Violation of the conditions of limitation placed by the 1682  
board upon a certificate to practice; 1683

(16) Failure to pay license renewal fees specified in this 1684  
chapter; 1685

(17) Except as authorized in section 4731.31 of the Revised 1686  
Code, engaging in the division of fees for referral of patients, 1687  
or the receiving of a thing of value in return for a specific 1688  
referral of a patient to utilize a particular service or business; 1689

(18) Subject to section 4731.226 of the Revised Code, 1690  
violation of any provision of a code of ethics of the American 1691  
medical association, the American osteopathic association, the 1692  
American podiatric medical association, or any other national 1693  
professional organizations that the board specifies by rule. The 1694  
state medical board shall obtain and keep on file current copies 1695  
of the codes of ethics of the various national professional 1696  
organizations. The individual whose certificate is being suspended 1697



or revoked shall not be found to have violated any provision of a 1698  
code of ethics of an organization not appropriate to the 1699  
individual's profession. 1700

For purposes of this division, a "provision of a code of 1701  
ethics of a national professional organization" does not include 1702  
any provision that would preclude the making of a report by a 1703  
physician of an employee's use of a drug of abuse, or of a 1704  
condition of an employee other than one involving the use of a 1705  
drug of abuse, to the employer of the employee as described in 1706  
division (B) of section 2305.33 of the Revised Code. Nothing in 1707  
this division affects the immunity from civil liability conferred 1708  
by that section upon a physician who makes either type of report 1709  
in accordance with division (B) of that section. As used in this 1710  
division, "employee," "employer," and "physician" have the same 1711  
meanings as in section 2305.33 of the Revised Code. 1712

(19) Inability to practice according to acceptable and 1713  
prevailing standards of care by reason of mental illness or 1714  
physical illness, including, but not limited to, physical 1715  
deterioration that adversely affects cognitive, motor, or 1716  
perceptive skills. 1717

In enforcing this division, the board, upon a showing of a 1718  
possible violation, may compel any individual authorized to 1719  
practice by this chapter or who has submitted an application 1720  
pursuant to this chapter to submit to a mental examination, 1721  
physical examination, including an HIV test, or both a mental and 1722  
a physical examination. The expense of the examination is the 1723  
responsibility of the individual compelled to be examined. Failure 1724  
to submit to a mental or physical examination or consent to an HIV 1725  
test ordered by the board constitutes an admission of the 1726  
allegations against the individual unless the failure is due to 1727  
circumstances beyond the individual's control, and a default and 1728  
final order may be entered without the taking of testimony or 1729

presentation of evidence. If the board finds an individual unable 1730  
to practice because of the reasons set forth in this division, the 1731  
board shall require the individual to submit to care, counseling, 1732  
or treatment by physicians approved or designated by the board, as 1733  
a condition for initial, continued, reinstated, or renewed 1734  
authority to practice. An individual affected under this division 1735  
shall be afforded an opportunity to demonstrate to the board the 1736  
ability to resume practice in compliance with acceptable and 1737  
prevailing standards under the provisions of the individual's 1738  
certificate. For the purpose of this division, any individual who 1739  
applies for or receives a certificate to practice under this 1740  
chapter accepts the privilege of practicing in this state and, by 1741  
so doing, shall be deemed to have given consent to submit to a 1742  
mental or physical examination when directed to do so in writing 1743  
by the board, and to have waived all objections to the 1744  
admissibility of testimony or examination reports that constitute 1745  
a privileged communication. 1746

(20) Except when civil penalties are imposed under section 1747  
4731.225 or 4731.281 of the Revised Code, and subject to section 1748  
4731.226 of the Revised Code, violating or attempting to violate, 1749  
directly or indirectly, or assisting in or abetting the violation 1750  
of, or conspiring to violate, any provisions of this chapter or 1751  
any rule promulgated by the board. 1752

This division does not apply to a violation or attempted 1753  
violation of, assisting in or abetting the violation of, or a 1754  
conspiracy to violate, any provision of this chapter or any rule 1755  
adopted by the board that would preclude the making of a report by 1756  
a physician of an employee's use of a drug of abuse, or of a 1757  
condition of an employee other than one involving the use of a 1758  
drug of abuse, to the employer of the employee as described in 1759  
division (B) of section 2305.33 of the Revised Code. Nothing in 1760  
this division affects the immunity from civil liability conferred 1761

by that section upon a physician who makes either type of report 1762  
in accordance with division (B) of that section. As used in this 1763  
division, "employee," "employer," and "physician" have the same 1764  
meanings as in section 2305.33 of the Revised Code. 1765

(21) The violation of any abortion rule adopted by the public 1766  
health council pursuant to section 3701.341 of the Revised Code; 1767

(22) Any of the following actions taken by the agency 1768  
responsible for regulating the practice of medicine and surgery, 1769  
osteopathic medicine and surgery, podiatric medicine and surgery, 1770  
or the limited branches of medicine in another jurisdiction, for 1771  
any reason other than the nonpayment of fees: the limitation, 1772  
revocation, or suspension of an individual's license to practice; 1773  
acceptance of an individual's license surrender; denial of a 1774  
license; refusal to renew or reinstate a license; imposition of 1775  
probation; or issuance of an order of censure or other reprimand; 1776

(23) The violation of section 2919.12 of the Revised Code or 1777  
the performance or inducement of an abortion upon a pregnant woman 1778  
with actual knowledge that the conditions specified in division 1779  
(B) of section 2317.56 of the Revised Code have not been satisfied 1780  
or with a heedless indifference as to whether those conditions 1781  
have been satisfied, unless an affirmative defense as specified in 1782  
division (H)(2) of that section would apply in a civil action 1783  
authorized by division (H)(1) of that section; 1784

(24) The revocation, suspension, restriction, reduction, or 1785  
termination of clinical privileges by the United States department 1786  
of defense or department of veterans affairs or the termination or 1787  
suspension of a certificate of registration to prescribe drugs by 1788  
the drug enforcement administration of the United States 1789  
department of justice; 1790

(25) Termination or suspension from participation in the 1791  
medicare or medicaid programs by the department of health and 1792

human services or other responsible agency for any act or acts 1793  
that also would constitute a violation of division (B)(2), (3), 1794  
(6), (8), or (19) of this section; 1795

(26) Impairment of ability to practice according to 1796  
acceptable and prevailing standards of care because of habitual or 1797  
excessive use or abuse of drugs, alcohol, or other substances that 1798  
impair ability to practice. 1799

For the purposes of this division, any individual authorized 1800  
to practice by this chapter accepts the privilege of practicing in 1801  
this state subject to supervision by the board. By filing an 1802  
application for or holding a certificate to practice under this 1803  
chapter, an individual shall be deemed to have given consent to 1804  
submit to a mental or physical examination when ordered to do so 1805  
by the board in writing, and to have waived all objections to the 1806  
admissibility of testimony or examination reports that constitute 1807  
privileged communications. 1808

If it has reason to believe that any individual authorized to 1809  
practice by this chapter or any applicant for certification to 1810  
practice suffers such impairment, the board may compel the 1811  
individual to submit to a mental or physical examination, or both. 1812  
The expense of the examination is the responsibility of the 1813  
individual compelled to be examined. Any mental or physical 1814  
examination required under this division shall be undertaken by a 1815  
treatment provider or physician who is qualified to conduct the 1816  
examination and who is chosen by the board. 1817

Failure to submit to a mental or physical examination ordered 1818  
by the board constitutes an admission of the allegations against 1819  
the individual unless the failure is due to circumstances beyond 1820  
the individual's control, and a default and final order may be 1821  
entered without the taking of testimony or presentation of 1822  
evidence. If the board determines that the individual's ability to 1823  
practice is impaired, the board shall suspend the individual's 1824

certificate or deny the individual's application and shall require 1825  
the individual, as a condition for initial, continued, reinstated, 1826  
or renewed certification to practice, to submit to treatment. 1827

Before being eligible to apply for reinstatement of a 1828  
certificate suspended under this division, the impaired 1829  
practitioner shall demonstrate to the board the ability to resume 1830  
practice in compliance with acceptable and prevailing standards of 1831  
care under the provisions of the practitioner's certificate. The 1832  
demonstration shall include, but shall not be limited to, the 1833  
following: 1834

(a) Certification from a treatment provider approved under 1835  
section 4731.25 of the Revised Code that the individual has 1836  
successfully completed any required inpatient treatment; 1837

(b) Evidence of continuing full compliance with an aftercare 1838  
contract or consent agreement; 1839

(c) Two written reports indicating that the individual's 1840  
ability to practice has been assessed and that the individual has 1841  
been found capable of practicing according to acceptable and 1842  
prevailing standards of care. The reports shall be made by 1843  
individuals or providers approved by the board for making the 1844  
assessments and shall describe the basis for their determination. 1845

The board may reinstate a certificate suspended under this 1846  
division after that demonstration and after the individual has 1847  
entered into a written consent agreement. 1848

When the impaired practitioner resumes practice, the board 1849  
shall require continued monitoring of the individual. The 1850  
monitoring shall include, but not be limited to, compliance with 1851  
the written consent agreement entered into before reinstatement or 1852  
with conditions imposed by board order after a hearing, and, upon 1853  
termination of the consent agreement, submission to the board for 1854  
at least two years of annual written progress reports made under 1855

penalty of perjury stating whether the individual has maintained 1856  
sobriety. 1857

(27) A second or subsequent violation of section 4731.66 or 1858  
4731.69 of the Revised Code; 1859

(28) Except as provided in division (N) of this section: 1860

(a) Waiving the payment of all or any part of a deductible or 1861  
copayment that a patient, pursuant to a health insurance or health 1862  
care policy, contract, or plan that covers the individual's 1863  
services, otherwise would be required to pay if the waiver is used 1864  
as an enticement to a patient or group of patients to receive 1865  
health care services from that individual; 1866

(b) Advertising that the individual will waive the payment of 1867  
all or any part of a deductible or copayment that a patient, 1868  
pursuant to a health insurance or health care policy, contract, or 1869  
plan that covers the individual's services, otherwise would be 1870  
required to pay. 1871

(29) Failure to use universal blood and body fluid 1872  
precautions established by rules adopted under section 4731.051 of 1873  
the Revised Code; 1874

~~(30) Failure of a collaborating physician to fulfill the 1875  
responsibilities agreed to by the physician and an advanced 1876  
practice nurse participating in a pilot program under section 1877  
4723.52 of the Revised Code; 1878~~

~~(31)~~ Failure to provide notice to, and receive acknowledgment 1879  
of the notice from, a patient when required by section 4731.143 of 1880  
the Revised Code prior to providing nonemergency professional 1881  
services, or failure to maintain that notice in the patient's 1882  
file; 1883

~~(32)~~(31) Failure of a physician supervising a physician 1884  
assistant to maintain supervision in accordance with the 1885

requirements of Chapter 4730. of the Revised Code and the rules	1886
adopted under that chapter;	1887
<del>(33)</del> <u>(32)</u> Failure of a physician or podiatrist to enter into a	1888
standard care arrangement with a clinical nurse specialist,	1889
certified nurse-midwife, or certified nurse practitioner with whom	1890
the physician or podiatrist is in collaboration pursuant to	1891
section 4731.27 of the Revised Code or failure to fulfill the	1892
responsibilities of collaboration after entering into a standard	1893
care arrangement;	1894
<del>(34)</del> <u>(33)</u> Failure to comply with the terms of a consult	1895
agreement entered into with a pharmacist pursuant to section	1896
4729.39 of the Revised Code;	1897
<del>(35)</del> <u>(34)</u> Failure to cooperate in an investigation conducted	1898
by the board under division (F) of this section, including failure	1899
to comply with a subpoena or order issued by the board or failure	1900
to answer truthfully a question presented by the board at a	1901
deposition or in written interrogatories, except that failure to	1902
cooperate with an investigation shall not constitute grounds for	1903
discipline under this section if a court of competent jurisdiction	1904
has issued an order that either quashes a subpoena or permits the	1905
individual to withhold the testimony or evidence in issue;	1906
<del>(36)</del> <u>(35)</u> Failure to supervise an acupuncturist in accordance	1907
with Chapter 4762. of the Revised Code and the board's rules for	1908
supervision of an acupuncturist;	1909
<del>(37)</del> <u>(36)</u> Failure to supervise an anesthesiologist assistant	1910
in accordance with Chapter 4760. of the Revised Code and the	1911
board's rules for supervision of an anesthesiologist assistant;	1912
<del>(38)</del> <u>(37)</u> Assisting suicide as defined in section 3795.01 of	1913
the Revised Code.	1914
(C) Disciplinary actions taken by the board under divisions	1915
(A) and (B) of this section shall be taken pursuant to an	1916

adjudication under Chapter 119. of the Revised Code, except that 1917  
in lieu of an adjudication, the board may enter into a consent 1918  
agreement with an individual to resolve an allegation of a 1919  
violation of this chapter or any rule adopted under it. A consent 1920  
agreement, when ratified by an affirmative vote of not fewer than 1921  
six members of the board, shall constitute the findings and order 1922  
of the board with respect to the matter addressed in the 1923  
agreement. If the board refuses to ratify a consent agreement, the 1924  
admissions and findings contained in the consent agreement shall 1925  
be of no force or effect. 1926

(D) For purposes of divisions (B)(10), (12), and (14) of this 1927  
section, the commission of the act may be established by a finding 1928  
by the board, pursuant to an adjudication under Chapter 119. of 1929  
the Revised Code, that the individual committed the act. The board 1930  
does not have jurisdiction under those divisions if the trial 1931  
court renders a final judgment in the individual's favor and that 1932  
judgment is based upon an adjudication on the merits. The board 1933  
has jurisdiction under those divisions if the trial court issues 1934  
an order of dismissal upon technical or procedural grounds. 1935

(E) The sealing of conviction records by any court shall have 1936  
no effect upon a prior board order entered under this section or 1937  
upon the board's jurisdiction to take action under this section 1938  
if, based upon a plea of guilty, a judicial finding of guilt, or a 1939  
judicial finding of eligibility for intervention in lieu of 1940  
conviction, the board issued a notice of opportunity for a hearing 1941  
prior to the court's order to seal the records. The board shall 1942  
not be required to seal, destroy, redact, or otherwise modify its 1943  
records to reflect the court's sealing of conviction records. 1944

(F)(1) The board shall investigate evidence that appears to 1945  
show that a person has violated any provision of this chapter or 1946  
any rule adopted under it. Any person may report to the board in a 1947  
signed writing any information that the person may have that 1948



appears to show a violation of any provision of this chapter or 1949  
any rule adopted under it. In the absence of bad faith, any person 1950  
who reports information of that nature or who testifies before the 1951  
board in any adjudication conducted under Chapter 119. of the 1952  
Revised Code shall not be liable in damages in a civil action as a 1953  
result of the report or testimony. Each complaint or allegation of 1954  
a violation received by the board shall be assigned a case number 1955  
and shall be recorded by the board. 1956

(2) Investigations of alleged violations of this chapter or 1957  
any rule adopted under it shall be supervised by the supervising 1958  
member elected by the board in accordance with section 4731.02 of 1959  
the Revised Code and by the secretary as provided in section 1960  
4731.39 of the Revised Code. The president may designate another 1961  
member of the board to supervise the investigation in place of the 1962  
supervising member. No member of the board who supervises the 1963  
investigation of a case shall participate in further adjudication 1964  
of the case. 1965

(3) In investigating a possible violation of this chapter or 1966  
any rule adopted under this chapter, the board may administer 1967  
oaths, order the taking of depositions, issue subpoenas, and 1968  
compel the attendance of witnesses and production of books, 1969  
accounts, papers, records, documents, and testimony, except that a 1970  
subpoena for patient record information shall not be issued 1971  
without consultation with the attorney general's office and 1972  
approval of the secretary and supervising member of the board. 1973  
Before issuance of a subpoena for patient record information, the 1974  
secretary and supervising member shall determine whether there is 1975  
probable cause to believe that the complaint filed alleges a 1976  
violation of this chapter or any rule adopted under it and that 1977  
the records sought are relevant to the alleged violation and 1978  
material to the investigation. The subpoena may apply only to 1979  
records that cover a reasonable period of time surrounding the 1980

alleged violation. 1981

On failure to comply with any subpoena issued by the board 1982  
and after reasonable notice to the person being subpoenaed, the 1983  
board may move for an order compelling the production of persons 1984  
or records pursuant to the Rules of Civil Procedure. 1985

A subpoena issued by the board may be served by a sheriff, 1986  
the sheriff's deputy, or a board employee designated by the board. 1987  
Service of a subpoena issued by the board may be made by 1988  
delivering a copy of the subpoena to the person named therein, 1989  
reading it to the person, or leaving it at the person's usual 1990  
place of residence. When the person being served is a person whose 1991  
practice is authorized by this chapter, service of the subpoena 1992  
may be made by certified mail, restricted delivery, return receipt 1993  
requested, and the subpoena shall be deemed served on the date 1994  
delivery is made or the date the person refuses to accept 1995  
delivery. 1996

A sheriff's deputy who serves a subpoena shall receive the 1997  
same fees as a sheriff. Each witness who appears before the board 1998  
in obedience to a subpoena shall receive the fees and mileage 1999  
provided for witnesses in civil cases in the courts of common 2000  
pleas. 2001

(4) All hearings and investigations of the board shall be 2002  
considered civil actions for the purposes of section 2305.252 of 2003  
the Revised Code. 2004

(5) Information received by the board pursuant to an 2005  
investigation is confidential and not subject to discovery in any 2006  
civil action. 2007

The board shall conduct all investigations and proceedings in 2008  
a manner that protects the confidentiality of patients and persons 2009  
who file complaints with the board. The board shall not make 2010  
public the names or any other identifying information about 2011

patients or complainants unless proper consent is given or, in the 2012  
case of a patient, a waiver of the patient privilege exists under 2013  
division (B) of section 2317.02 of the Revised Code, except that 2014  
consent or a waiver of that nature is not required if the board 2015  
possesses reliable and substantial evidence that no bona fide 2016  
physician-patient relationship exists. 2017

The board may share any information it receives pursuant to 2018  
an investigation, including patient records and patient record 2019  
information, with law enforcement agencies, other licensing 2020  
boards, and other governmental agencies that are prosecuting, 2021  
adjudicating, or investigating alleged violations of statutes or 2022  
administrative rules. An agency or board that receives the 2023  
information shall comply with the same requirements regarding 2024  
confidentiality as those with which the state medical board must 2025  
comply, notwithstanding any conflicting provision of the Revised 2026  
Code or procedure of the agency or board that applies when it is 2027  
dealing with other information in its possession. In a judicial 2028  
proceeding, the information may be admitted into evidence only in 2029  
accordance with the Rules of Evidence, but the court shall require 2030  
that appropriate measures are taken to ensure that confidentiality 2031  
is maintained with respect to any part of the information that 2032  
contains names or other identifying information about patients or 2033  
complainants whose confidentiality was protected by the state 2034  
medical board when the information was in the board's possession. 2035  
Measures to ensure confidentiality that may be taken by the court 2036  
include sealing its records or deleting specific information from 2037  
its records. 2038

(6) On a quarterly basis, the board shall prepare a report 2039  
that documents the disposition of all cases during the preceding 2040  
three months. The report shall contain the following information 2041  
for each case with which the board has completed its activities: 2042

(a) The case number assigned to the complaint or alleged 2043

violation;	2044
(b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;	2045 2046
(c) A description of the allegations contained in the complaint;	2047 2048
(d) The disposition of the case.	2049
The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.	2050 2051 2052 2053
(G) If the secretary and supervising member determine that there is clear and convincing evidence that an individual has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice without a prior hearing. Written allegations shall be prepared for consideration by the board.	2054 2055 2056 2057 2058 2059 2060 2061
The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.	2062 2063 2064 2065 2066 2067
The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier	2068 2069 2070 2071 2072 2073 2074

than seven days, after the individual requests the hearing, unless 2075  
otherwise agreed to by both the board and the individual. 2076

Any summary suspension imposed under this division shall 2077  
remain in effect, unless reversed on appeal, until a final 2078  
adjudicative order issued by the board pursuant to this section 2079  
and Chapter 119. of the Revised Code becomes effective. The board 2080  
shall issue its final adjudicative order within sixty days after 2081  
completion of its hearing. A failure to issue the order within 2082  
sixty days shall result in dissolution of the summary suspension 2083  
order but shall not invalidate any subsequent, final adjudicative 2084  
order. 2085

(H) If the board takes action under division (B)(9), (11), or 2086  
(13) of this section and the judicial finding of guilt, guilty 2087  
plea, or judicial finding of eligibility for intervention in lieu 2088  
of conviction is overturned on appeal, upon exhaustion of the 2089  
criminal appeal, a petition for reconsideration of the order may 2090  
be filed with the board along with appropriate court documents. 2091  
Upon receipt of a petition of that nature and supporting court 2092  
documents, the board shall reinstate the individual's certificate 2093  
to practice. The board may then hold an adjudication under Chapter 2094  
119. of the Revised Code to determine whether the individual 2095  
committed the act in question. Notice of an opportunity for a 2096  
hearing shall be given in accordance with Chapter 119. of the 2097  
Revised Code. If the board finds, pursuant to an adjudication held 2098  
under this division, that the individual committed the act or if 2099  
no hearing is requested, the board may order any of the sanctions 2100  
identified under division (B) of this section. 2101

(I) The certificate to practice issued to an individual under 2102  
this chapter and the individual's practice in this state are 2103  
automatically suspended as of the date the individual pleads 2104  
guilty to, is found by a judge or jury to be guilty of, or is 2105  
subject to a judicial finding of eligibility for intervention in 2106

lieu of conviction in this state or treatment or intervention in 2107  
lieu of conviction in another jurisdiction for any of the 2108  
following criminal offenses in this state or a substantially 2109  
equivalent criminal offense in another jurisdiction: aggravated 2110  
murder, murder, voluntary manslaughter, felonious assault, 2111  
kidnapping, rape, sexual battery, gross sexual imposition, 2112  
aggravated arson, aggravated robbery, or aggravated burglary. 2113  
Continued practice after suspension shall be considered practicing 2114  
without a certificate. 2115

The board shall notify the individual subject to the 2116  
suspension by certified mail or in person in accordance with 2117  
section 119.07 of the Revised Code. If an individual whose 2118  
certificate is suspended under this division fails to make a 2119  
timely request for an adjudication under Chapter 119. of the 2120  
Revised Code, the board shall enter a final order permanently 2121  
revoking the individual's certificate to practice. 2122

(J) If the board is required by Chapter 119. of the Revised 2123  
Code to give notice of an opportunity for a hearing and if the 2124  
individual subject to the notice does not timely request a hearing 2125  
in accordance with section 119.07 of the Revised Code, the board 2126  
is not required to hold a hearing, but may adopt, by an 2127  
affirmative vote of not fewer than six of its members, a final 2128  
order that contains the board's findings. In that final order, the 2129  
board may order any of the sanctions identified under division (A) 2130  
or (B) of this section. 2131

(K) Any action taken by the board under division (B) of this 2132  
section resulting in a suspension from practice shall be 2133  
accompanied by a written statement of the conditions under which 2134  
the individual's certificate to practice may be reinstated. The 2135  
board shall adopt rules governing conditions to be imposed for 2136  
reinstatement. Reinstatement of a certificate suspended pursuant 2137  
to division (B) of this section requires an affirmative vote of 2138

not fewer than six members of the board. 2139

(L) When the board refuses to grant a certificate to an 2140  
applicant, revokes an individual's certificate to practice, 2141  
refuses to register an applicant, or refuses to reinstate an 2142  
individual's certificate to practice, the board may specify that 2143  
its action is permanent. An individual subject to a permanent 2144  
action taken by the board is forever thereafter ineligible to hold 2145  
a certificate to practice and the board shall not accept an 2146  
application for reinstatement of the certificate or for issuance 2147  
of a new certificate. 2148

(M) Notwithstanding any other provision of the Revised Code, 2149  
all of the following apply: 2150

(1) The surrender of a certificate issued under this chapter 2151  
shall not be effective unless or until accepted by the board. 2152  
Reinstatement of a certificate surrendered to the board requires 2153  
an affirmative vote of not fewer than six members of the board. 2154

(2) An application for a certificate made under the 2155  
provisions of this chapter may not be withdrawn without approval 2156  
of the board. 2157

(3) Failure by an individual to renew a certificate of 2158  
registration in accordance with this chapter shall not remove or 2159  
limit the board's jurisdiction to take any disciplinary action 2160  
under this section against the individual. 2161

(N) Sanctions shall not be imposed under division (B)(28) of 2162  
this section against any person who waives deductibles and 2163  
copayments as follows: 2164

(1) In compliance with the health benefit plan that expressly 2165  
allows such a practice. Waiver of the deductibles or copayments 2166  
shall be made only with the full knowledge and consent of the plan 2167  
purchaser, payer, and third-party administrator. Documentation of 2168  
the consent shall be made available to the board upon request. 2169

(2) For professional services rendered to any other person 2170  
authorized to practice pursuant to this chapter, to the extent 2171  
allowed by this chapter and rules adopted by the board. 2172

(0) Under the board's investigative duties described in this 2173  
section and subject to division (F) of this section, the board 2174  
shall develop and implement a quality intervention program 2175  
designed to improve through remedial education the clinical and 2176  
communication skills of individuals authorized under this chapter 2177  
to practice medicine and surgery, osteopathic medicine and 2178  
surgery, and podiatric medicine and surgery. In developing and 2179  
implementing the quality intervention program, the board may do 2180  
all of the following: 2181

(1) Offer in appropriate cases as determined by the board an 2182  
educational and assessment program pursuant to an investigation 2183  
the board conducts under this section; 2184

(2) Select providers of educational and assessment services, 2185  
including a quality intervention program panel of case reviewers; 2186

(3) Make referrals to educational and assessment service 2187  
providers and approve individual educational programs recommended 2188  
by those providers. The board shall monitor the progress of each 2189  
individual undertaking a recommended individual educational 2190  
program. 2191

(4) Determine what constitutes successful completion of an 2192  
individual educational program and require further monitoring of 2193  
the individual who completed the program or other action that the 2194  
board determines to be appropriate; 2195

(5) Adopt rules in accordance with Chapter 119. of the 2196  
Revised Code to further implement the quality intervention 2197  
program. 2198

An individual who participates in an individual educational 2199



program pursuant to this division shall pay the financial 2200  
obligations arising from that educational program. 2201

**Sec. 4731.295.** (A)(1) As used in this section, "indigent and 2202  
uninsured person," ~~"nonprofit shelter or health care facility,"~~ 2203  
and "operation" have the same meanings as in section 2305.234 of 2204  
the Revised Code. 2205

(2) For the purposes of this section, a person shall be 2206  
considered retired from practice if the person's license or 2207  
certificate has expired with the person's intention of ceasing to 2208  
practice medicine and surgery or osteopathic medicine and surgery 2209  
for remuneration. 2210

(B) The state medical board may issue, without examination, a 2211  
volunteer's certificate to a person who is retired from practice 2212  
so that the person may provide medical services to indigent and 2213  
uninsured persons ~~at nonprofit shelters or health care facilities.~~ 2214  
The board shall deny issuance of a volunteer's certificate to a 2215  
person who is not qualified under this section to hold a 2216  
volunteer's certificate. 2217

(C) An application for a volunteer's certificate shall 2218  
include all of the following: 2219

(1) A copy of the applicant's degree of medicine or 2220  
osteopathic medicine. 2221

(2) One of the following, as applicable: 2222

(a) A copy of the applicant's most recent license or 2223  
certificate authorizing the practice of medicine and surgery or 2224  
osteopathic medicine and surgery issued by a jurisdiction in the 2225  
United States that licenses persons to practice medicine and 2226  
surgery or osteopathic medicine and surgery. 2227

(b) A copy of the applicant's most recent license equivalent 2228  
to a license to practice medicine and surgery or osteopathic 2229

medicine and surgery in one or more branches of the United States	2230
armed services that the United States government issued.	2231
(3) Evidence of one of the following, as applicable:	2232
(a) That the applicant has maintained for at least ten years	2233
prior to retirement full licensure in good standing in any	2234
jurisdiction in the United States that licenses persons to	2235
practice medicine and surgery or osteopathic medicine and surgery.	2236
(b) That the applicant has practiced for at least ten years	2237
prior to retirement in good standing as a doctor of medicine and	2238
surgery or osteopathic medicine and surgery in one or more of the	2239
branches of the United States armed services.	2240
(4) A notarized statement from the applicant, on a form	2241
prescribed by the board, that the applicant will not accept any	2242
form of remuneration for any medical services rendered while in	2243
possession of a volunteer's certificate.	2244
(D) The holder of a volunteer's certificate may provide	2245
medical services <del>only on the premises of a nonprofit shelter or</del>	2246
<del>health care facility and</del> only to indigent and uninsured persons.	2247
The holder shall not accept any form of remuneration for providing	2248
medical services while in possession of the certificate. Except in	2249
a medical emergency, the holder shall not perform any operation or	2250
deliver babies. The board may revoke a volunteer's certificate on	2251
receiving proof satisfactory to the board that the holder has	2252
engaged in practice in this state outside the scope of the	2253
certificate.	2254
(E)(1) A volunteer's certificate shall be valid for a period	2255
of three years, unless earlier revoked under division (D) of this	2256
section or pursuant to section 4731.22 of the Revised Code. A	2257
volunteer's certificate may be renewed upon the application of the	2258
holder. The board shall maintain a register of all persons who	2259
hold volunteer's certificates. The board shall not charge a fee	2260

for issuing or renewing a certificate pursuant to this section. 2261

(2) To be eligible for renewal of a volunteer's certificate 2262  
the holder of the certificate shall certify to the board 2263  
completion of one hundred fifty hours of continuing medical 2264  
education that meets the requirements of section 4731.281 of the 2265  
Revised Code regarding certification by private associations and 2266  
approval by the board. The board may not renew a certificate if 2267  
the holder has not complied with the continuing medical education 2268  
requirements. ~~The nonprofit shelter or health care facility in~~ Any 2269  
entity for which the holder provides medical services may pay for 2270  
or reimburse the holder for any costs incurred in obtaining the 2271  
required continuing medical education credits. 2272

(3) The board shall issue to each person who qualifies under 2273  
this section for a volunteer's certificate a wallet certificate 2274  
and a wall certificate that state that the certificate holder is 2275  
authorized to provide medical services pursuant to the laws of 2276  
this state. The holder shall keep the wallet certificate on the 2277  
holder's person while providing medical services and shall display 2278  
the wall certificate prominently ~~in the nonprofit shelter or~~ 2279  
~~health care facility~~ at the location where the holder primarily 2280  
practices. 2281

(4) The holder of a volunteer's certificate issued pursuant 2282  
to this section is subject to the immunity provisions in section 2283  
2305.234 of the Revised Code. 2284

(F) The board shall adopt rules in accordance with Chapter 2285  
119. of the Revised Code to administer and enforce this section. 2286

**Section 2.** That existing sections 2305.113, 2305.234, 2287  
2711.22, 3701.071, 3719.81, 4713.02, 4715.42, 4723.01, 4723.03, 2288  
4723.28, 4723.44, 4723.48, 4723.482, 4729.01, 4731.22, and 2289  
4731.295 of the Revised Code are hereby repealed. 2290

**Section 3.** (A) As used in this section, "health care professional," "health care worker," "indigent and uninsured person," "nonprofit health care referral organization," and "volunteer" have the same meanings as in section 2305.234 of the Revised Code, as amended by this act.

(B) The Ohio Medical Malpractice Commission created by Section 4 of Am. Sub. S.B. 281 of the 124th General Assembly shall have the following duties, in addition to the other duties provided by law for the Commission:

(1) To study the affordability and availability of medical malpractice insurance for health care professionals and health care workers who are volunteers and for nonprofit health care referral organizations;

(2) To study the feasibility of whether the state of Ohio should provide catastrophic claims coverage, or an insurance pool of any kind, for health care professionals and health care workers to utilize as volunteers in providing medical, dental, or other health-related diagnosis, care, or treatment to indigent and uninsured persons;

(3) To study the feasibility of whether the state of Ohio should create a fund to provide compensation to indigent and uninsured persons who receive medical, dental, or other health-related diagnosis, care, or treatment from health care professionals or health care workers who are volunteers, for any injury, death, or loss to person or property as a result of the negligence or other misconduct by those health care professionals or workers;

(4) To study whether the Good Samaritan laws of other states offer approaches that are materially different from the Ohio Good Samaritan Law as amended by this act, as contained in section

2305.234 of the Revised Code.	2321
(C) The Commission shall submit a report of its findings regarding all of the matters provided in division (B) of this section to the members of the General Assembly not later than two years after the effective date of this act.	2322 2323 2324 2325
(D) The Department of Insurance shall provide any technical, professional, and clerical employees that are necessary for the Commission to perform its duties under this section.	2326 2327 2328
<b>Section 4.</b> 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.	2329 2330 2331 2332
<b>Section 5.</b> 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 the January 17, 2004, effective date of the repeal of those sections, as provided in Section 3 of Am. Sub. H.B. 241 of the 123rd General Assembly.	2333 2334 2335 2336 2337 2338 2339 2340 2341 2342
<b>Section 6.</b> 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 an advanced practice nurse participating in one of the pilot programs operated pursuant to sections 4723.52 to	2343 2344 2345 2346 2347 2348 2349

4723.60 of the Revised Code prior to the January 17, 2004, 2350  
effective date of the repeal of those sections, as provided in 2351  
Section 3 of Am. Sub. H.B. 241 of the 123rd General Assembly. 2352

**Section 7.** Section 2305.234 of the Revised Code is presented 2353  
in this act as a composite of the section as amended by both Am. 2354  
Sub. H.B. 95 and Am. Sub. S.B. 51 of the 125th General Assembly. 2355  
Section 4723.28 of the Revised Code is presented in this act as a 2356  
composite of the section as amended by both Am. Sub. H.B. 474 and 2357  
Sub. S.B. 179 of the 124th General Assembly. Section 4731.22 of 2358  
the Revised Code is presented in this act as a composite of the 2359  
section as amended by both Am. Sub. H.B. 474 and Sub. S.B. 179 of 2360  
the 124th General Assembly. The General Assembly, applying the 2361  
principle stated in division (B) of section 1.52 of the Revised 2362  
Code that amendments are to be harmonized if reasonably capable of 2363  
simultaneous operation, finds that the composites are the 2364  
resulting versions of the sections in effect prior to the 2365  
effective date of the sections as presented in this act. 2366