

As Introduced

127th General Assembly
Regular Session
2007-2008

S. B. No. 203

Senator Grendell

—

A BILL

To amend sections 2305.234, 2925.01, 2925.09, 1
3715.01, 3715.64, 3719.01, 3719.12, 3719.121, 2
4303.34, 4729.01, 4729.06, 4729.15, 4729.16, 3
4729.18, 4729.26, 4729.28, 4729.38, 4729.55, 4
4729.67, and 4729.99 and to enact sections 5
4729.271 and 4729.42 to 4729.50 of the Revised 6
Code to require the State Board of Pharmacy to 7
certify and regulate individuals who work as 8
pharmacy technicians. 9

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

Section 1. That sections 2305.234, 2925.01, 2925.09, 3715.01, 10
3715.64, 3719.01, 3719.12, 3719.121, 4303.34, 4729.01, 4729.06, 11
4729.15, 4729.16, 4729.18, 4729.26, 4729.28, 4729.38, 4729.55, 12
4729.67, and 4729.99 be amended and sections 4729.271, 4729.42, 13
4729.43, 4729.44, 4729.45, 4729.46, 4729.47, 4729.48, 4729.49, and 14
4729.50 of the Revised Code be enacted to read as follows: 15

Sec. 2305.234. (A) As used in this section: 16

(1) "Chiropractic claim," "medical claim," and "optometric 17
claim" have the same meanings as in section 2305.113 of the 18
Revised Code. 19

(2) "Dental claim" has the same meaning as in section 20

2305.113 of the Revised Code, except that it does not include any 21
claim arising out of a dental operation or any derivative claim 22
for relief that arises out of a dental operation. 23

(3) "Governmental health care program" has the same meaning 24
as in section 4731.65 of the Revised Code. 25

(4) "Health care facility or location" means a hospital, 26
clinic, ambulatory surgical facility, office of a health care 27
professional or associated group of health care professionals, 28
training institution for health care professionals, or any other 29
place where medical, dental, or other health-related diagnosis, 30
care, or treatment is provided to a person. 31

(5) "Health care professional" means any of the following who 32
provide medical, dental, or other health-related diagnosis, care, 33
or treatment: 34

(a) Physicians authorized under Chapter 4731. of the Revised 35
Code to practice medicine and surgery or osteopathic medicine and 36
surgery; 37

(b) Registered nurses and licensed practical nurses licensed 38
under Chapter 4723. of the Revised Code and individuals who hold a 39
certificate of authority issued under that chapter that authorizes 40
the practice of nursing as a certified registered nurse 41
anesthetist, clinical nurse specialist, certified nurse-midwife, 42
or certified nurse practitioner; 43

(c) Physician assistants authorized to practice under Chapter 44
4730. of the Revised Code; 45

(d) Dentists and dental hygienists licensed under Chapter 46
4715. of the Revised Code; 47

(e) Physical therapists, physical therapist assistants, 48
occupational therapists, and occupational therapy assistants 49
licensed under Chapter 4755. of the Revised Code; 50

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	51 52
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	53 54
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	55 56
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	57 58
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	59 60
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	61 62 63 64
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	65 66
(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.	67 68
(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, <u>pharmacy technicians</u> , orderlies, aides, and individuals acting in similar capacities.	69 70 71 72 73 74 75
(7) "Indigent and uninsured person" means a person who meets all of the following requirements:	76 77
(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with	78 79 80

section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 81
95 Stat. 511, 42 U.S.C. 9902, as amended. 82

(b) The person is not eligible to receive medical assistance 83
under Chapter 5111. 1 disability medical assistance under Chapter 84
5115. of the Revised Code 1 or assistance under any other 85
governmental health care program. 86

(c) Either of the following applies: 87

(i) The person is not a policyholder, certificate holder, 88
insured, contract holder, subscriber, enrollee, member, 89
beneficiary, or other covered individual under a health insurance 90
or health care policy, contract, or plan. 91

(ii) The person is a policyholder, certificate holder, 92
insured, contract holder, subscriber, enrollee, member, 93
beneficiary, or other covered individual under a health insurance 94
or health care policy, contract, or plan, but the insurer, policy, 95
contract, or plan denies coverage or is the subject of insolvency 96
or bankruptcy proceedings in any jurisdiction. 97

(8) "Nonprofit health care referral organization" means an 98
entity that is not operated for profit and refers patients to, or 99
arranges for the provision of, health-related diagnosis, care, or 100
treatment by a health care professional or health care worker. 101

(9) "Operation" means any procedure that involves cutting or 102
otherwise infiltrating human tissue by mechanical means, including 103
surgery, laser surgery, ionizing radiation, therapeutic 104
ultrasound, or the removal of intraocular foreign bodies. 105

"Operation" does not include the administration of medication by 106
injection, unless the injection is administered in conjunction 107
with a procedure infiltrating human tissue by mechanical means 108
other than the administration of medicine by injection. 109

"Operation" does not include routine dental restorative 110
procedures, the scaling of teeth, or extractions of teeth that are 111

not impacted. 112

(10) "Tort action" means a civil action for damages for 113
injury, death, or loss to person or property other than a civil 114
action for damages for a breach of contract or another agreement 115
between persons or government entities. 116

(11) "Volunteer" means an individual who provides any 117
medical, dental, or other health-care related diagnosis, care, or 118
treatment without the expectation of receiving and without receipt 119
of any compensation or other form of remuneration from an indigent 120
and uninsured person, another person on behalf of an indigent and 121
uninsured person, any health care facility or location, any 122
nonprofit health care referral organization, or any other person 123
or government entity. 124

(12) "Community control sanction" has the same meaning as in 125
section 2929.01 of the Revised Code. 126

(13) "Deep sedation" means a drug-induced depression of 127
consciousness during which a patient cannot be easily aroused but 128
responds purposefully following repeated or painful stimulation, a 129
patient's ability to independently maintain ventilatory function 130
may be impaired, a patient may require assistance in maintaining a 131
patent airway and spontaneous ventilation may be inadequate, and 132
cardiovascular function is usually maintained. 133

(14) "General anesthesia" means a drug-induced loss of 134
consciousness during which a patient is not arousable, even by 135
painful stimulation, the ability to independently maintain 136
ventilatory function is often impaired, a patient often requires 137
assistance in maintaining a patent airway, positive pressure 138
ventilation may be required because of depressed spontaneous 139
ventilation or drug-induced depression of neuromuscular function, 140
and cardiovascular function may be impaired. 141

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 142

health care professional who is a volunteer and complies with 143
division (B)(2) of this section is not liable in damages to any 144
person or government entity in a tort or other civil action, 145
including an action on a medical, dental, chiropractic, 146
optometric, or other health-related claim, for injury, death, or 147
loss to person or property that allegedly arises from an action or 148
omission of the volunteer in the provision to an indigent and 149
uninsured person of medical, dental, or other health-related 150
diagnosis, care, or treatment, including the provision of samples 151
of medicine and other medical products, unless the action or 152
omission constitutes willful or wanton misconduct. 153

(2) To qualify for the immunity described in division (B)(1) 154
of this section, a health care professional shall do all of the 155
following prior to providing diagnosis, care, or treatment: 156

(a) Determine, in good faith, that the indigent and uninsured 157
person is mentally capable of giving informed consent to the 158
provision of the diagnosis, care, or treatment and is not subject 159
to duress or under undue influence; 160

(b) Inform the person of the provisions of this section, 161
including notifying the person that, by giving informed consent to 162
the provision of the diagnosis, care, or treatment, the person 163
cannot hold the health care professional liable for damages in a 164
tort or other civil action, including an action on a medical, 165
dental, chiropractic, optometric, or other health-related claim, 166
unless the action or omission of the health care professional 167
constitutes willful or wanton misconduct; 168

(c) Obtain the informed consent of the person and a written 169
waiver, signed by the person or by another individual on behalf of 170
and in the presence of the person, that states that the person is 171
mentally competent to give informed consent and, without being 172
subject to duress or under undue influence, gives informed consent 173
to the provision of the diagnosis, care, or treatment subject to 174

the provisions of this section. A written waiver under division 175
(B)(2)(c) of this section shall state clearly and in conspicuous 176
type that the person or other individual who signs the waiver is 177
signing it with full knowledge that, by giving informed consent to 178
the provision of the diagnosis, care, or treatment, the person 179
cannot bring a tort or other civil action, including an action on 180
a medical, dental, chiropractic, optometric, or other 181
health-related claim, against the health care professional unless 182
the action or omission of the health care professional constitutes 183
willful or wanton misconduct. 184

(3) A physician or podiatrist who is not covered by medical 185
malpractice insurance, but complies with division (B)(2) of this 186
section, is not required to comply with division (A) of section 187
4731.143 of the Revised Code. 188

(C) Subject to divisions (F) and (G)(3) of this section, 189
health care workers who are volunteers are not liable in damages 190
to any person or government entity in a tort or other civil 191
action, including an action upon a medical, dental, chiropractic, 192
optometric, or other health-related claim, for injury, death, or 193
loss to person or property that allegedly arises from an action or 194
omission of the health care worker in the provision to an indigent 195
and uninsured person of medical, dental, or other health-related 196
diagnosis, care, or treatment, unless the action or omission 197
constitutes willful or wanton misconduct. 198

(D) Subject to divisions (F) and (G)(3) of this section, a 199
nonprofit health care referral organization is not liable in 200
damages to any person or government entity in a tort or other 201
civil action, including an action on a medical, dental, 202
chiropractic, optometric, or other health-related claim, for 203
injury, death, or loss to person or property that allegedly arises 204
from an action or omission of the nonprofit health care referral 205
organization in referring indigent and uninsured persons to, or 206

arranging for the provision of, medical, dental, or other 207
health-related diagnosis, care, or treatment by a health care 208
professional described in division (B)(1) of this section or a 209
health care worker described in division (C) of this section, 210
unless the action or omission constitutes willful or wanton 211
misconduct. 212

(E) Subject to divisions (F) and (G)(3) of this section and 213
to the extent that the registration requirements of section 214
3701.071 of the Revised Code apply, a health care facility or 215
location associated with a health care professional described in 216
division (B)(1) of this section, a health care worker described in 217
division (C) of this section, or a nonprofit health care referral 218
organization described in division (D) of this section is not 219
liable in damages to any person or government entity in a tort or 220
other civil action, including an action on a medical, dental, 221
chiropractic, optometric, or other health-related claim, for 222
injury, death, or loss to person or property that allegedly arises 223
from an action or omission of the health care professional or 224
worker or nonprofit health care referral organization relative to 225
the medical, dental, or other health-related diagnosis, care, or 226
treatment provided to an indigent and uninsured person on behalf 227
of or at the health care facility or location, unless the action 228
or omission constitutes willful or wanton misconduct. 229

(F)(1) Except as provided in division (F)(2) of this section, 230
the immunities provided by divisions (B), (C), (D), and (E) of 231
this section are not available to a health care professional, 232
health care worker, nonprofit health care referral organization, 233
or health care facility or location if, at the time of an alleged 234
injury, death, or loss to person or property, the health care 235
professionals or health care workers involved are providing one of 236
the following: 237

(a) Any medical, dental, or other health-related diagnosis, 238

care, or treatment pursuant to a community service work order 239
entered by a court under division (B) of section 2951.02 of the 240
Revised Code or imposed by a court as a community control 241
sanction; 242

(b) Performance of an operation to which any one of the 243
following applies: 244

(i) The operation requires the administration of deep 245
sedation or general anesthesia. 246

(ii) The operation is a procedure that is not typically 247
performed in an office. 248

(iii) The individual involved is a health care professional, 249
and the operation is beyond the scope of practice or the 250
education, training, and competence, as applicable, of the health 251
care professional. 252

(c) Delivery of a baby or any other purposeful termination of 253
a human pregnancy. 254

(2) Division (F)(1) of this section does not apply when a 255
health care professional or health care worker provides medical, 256
dental, or other health-related diagnosis, care, or treatment that 257
is necessary to preserve the life of a person in a medical 258
emergency. 259

(G)(1) This section does not create a new cause of action or 260
substantive legal right against a health care professional, health 261
care worker, nonprofit health care referral organization, or 262
health care facility or location. 263

(2) This section does not affect any immunities from civil 264
liability or defenses established by another section of the 265
Revised Code or available at common law to which a health care 266
professional, health care worker, nonprofit health care referral 267
organization, or health care facility or location may be entitled 268

in connection with the provision of emergency or other medical, 269
dental, or other health-related diagnosis, care, or treatment. 270

(3) This section does not grant an immunity from tort or 271
other civil liability to a health care professional, health care 272
worker, nonprofit health care referral organization, or health 273
care facility or location for actions that are outside the scope 274
of authority of health care professionals or health care workers. 275

(4) This section does not affect any legal responsibility of 276
a health care professional, health care worker, or nonprofit 277
health care referral organization to comply with any applicable 278
law of this state or rule of an agency of this state. 279

(5) This section does not affect any legal responsibility of 280
a health care facility or location to comply with any applicable 281
law of this state, rule of an agency of this state, or local code, 282
ordinance, or regulation that pertains to or regulates building, 283
housing, air pollution, water pollution, sanitation, health, fire, 284
zoning, or safety. 285

Sec. 2925.01. As used in this chapter: 286

(A) "Administer," "controlled substance," "dispense," 287
"distribute," "hypodermic," "manufacturer," "official written 288
order," "person," "pharmacist," "pharmacy intern," "pharmacy 289
technician," "pharmacy," "sale," "schedule I," "schedule II," 290
"schedule III," "schedule IV," "schedule V," and "wholesaler" have 291
the same meanings as in section 3719.01 of the Revised Code. 292

(B) "Drug dependent person" and "drug of abuse" have the same 293
meanings as in section 3719.011 of the Revised Code. 294

(C) "Drug," "dangerous drug," "licensed health professional 295
authorized to prescribe drugs," and "prescription" have the same 296
meanings as in section 4729.01 of the Revised Code. 297

(D) "Bulk amount" of a controlled substance means any of the 298

following: 299

(1) For any compound, mixture, preparation, or substance 300
included in schedule I, schedule II, or schedule III, with the 301
exception of marihuana, cocaine, L.S.D., heroin, and hashish and 302
except as provided in division (D)(2) or (5) of this section, 303
whichever of the following is applicable: 304

(a) An amount equal to or exceeding ten grams or twenty-five 305
unit doses of a compound, mixture, preparation, or substance that 306
is or contains any amount of a schedule I opiate or opium 307
derivative; 308

(b) An amount equal to or exceeding ten grams of a compound, 309
mixture, preparation, or substance that is or contains any amount 310
of raw or gum opium; 311

(c) An amount equal to or exceeding thirty grams or ten unit 312
doses of a compound, mixture, preparation, or substance that is or 313
contains any amount of a schedule I hallucinogen other than 314
tetrahydrocannabinol or lysergic acid amide, or a schedule I 315
stimulant or depressant; 316

(d) An amount equal to or exceeding twenty grams or five 317
times the maximum daily dose in the usual dose range specified in 318
a standard pharmaceutical reference manual of a compound, mixture, 319
preparation, or substance that is or contains any amount of a 320
schedule II opiate or opium derivative; 321

(e) An amount equal to or exceeding five grams or ten unit 322
doses of a compound, mixture, preparation, or substance that is or 323
contains any amount of phencyclidine; 324

(f) An amount equal to or exceeding one hundred twenty grams 325
or thirty times the maximum daily dose in the usual dose range 326
specified in a standard pharmaceutical reference manual of a 327
compound, mixture, preparation, or substance that is or contains 328
any amount of a schedule II stimulant that is in a final dosage 329

form manufactured by a person authorized by the "Federal Food, 330
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as 331
amended, and the federal drug abuse control laws, as defined in 332
section 3719.01 of the Revised Code, that is or contains any 333
amount of a schedule II depressant substance or a schedule II 334
hallucinogenic substance; 335

(g) An amount equal to or exceeding three grams of a 336
compound, mixture, preparation, or substance that is or contains 337
any amount of a schedule II stimulant, or any of its salts or 338
isomers, that is not in a final dosage form manufactured by a 339
person authorized by the Federal Food, Drug, and Cosmetic Act and 340
the federal drug abuse control laws. 341

(2) An amount equal to or exceeding one hundred twenty grams 342
or thirty times the maximum daily dose in the usual dose range 343
specified in a standard pharmaceutical reference manual of a 344
compound, mixture, preparation, or substance that is or contains 345
any amount of a schedule III or IV substance other than an 346
anabolic steroid or a schedule III opiate or opium derivative; 347

(3) An amount equal to or exceeding twenty grams or five 348
times the maximum daily dose in the usual dose range specified in 349
a standard pharmaceutical reference manual of a compound, mixture, 350
preparation, or substance that is or contains any amount of a 351
schedule III opiate or opium derivative; 352

(4) An amount equal to or exceeding two hundred fifty 353
milliliters or two hundred fifty grams of a compound, mixture, 354
preparation, or substance that is or contains any amount of a 355
schedule V substance; 356

(5) An amount equal to or exceeding two hundred solid dosage 357
units, sixteen grams, or sixteen milliliters of a compound, 358
mixture, preparation, or substance that is or contains any amount 359
of a schedule III anabolic steroid. 360

(E) "Unit dose" means an amount or unit of a compound, 361
mixture, or preparation containing a controlled substance that is 362
separately identifiable and in a form that indicates that it is 363
the amount or unit by which the controlled substance is separately 364
administered to or taken by an individual. 365

(F) "Cultivate" includes planting, watering, fertilizing, or 366
tilling. 367

(G) "Drug abuse offense" means any of the following: 368

(1) A violation of division (A) of section 2913.02 that 369
constitutes theft of drugs, or a violation of section 2925.02, 370
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 371
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 372
2925.37 of the Revised Code; 373

(2) A violation of an existing or former law of this or any 374
other state or of the United States that is substantially 375
equivalent to any section listed in division (G)(1) of this 376
section; 377

(3) An offense under an existing or former law of this or any 378
other state, or of the United States, of which planting, 379
cultivating, harvesting, processing, making, manufacturing, 380
producing, shipping, transporting, delivering, acquiring, 381
possessing, storing, distributing, dispensing, selling, inducing 382
another to use, administering to another, using, or otherwise 383
dealing with a controlled substance is an element; 384

(4) A conspiracy to commit, attempt to commit, or complicity 385
in committing or attempting to commit any offense under division 386
(G)(1), (2), or (3) of this section. 387

(H) "Felony drug abuse offense" means any drug abuse offense 388
that would constitute a felony under the laws of this state, any 389
other state, or the United States. 390

(I) "Harmful intoxicant" does not include beer or	391
intoxicating liquor but means any of the following:	392
(1) Any compound, mixture, preparation, or substance the gas,	393
fumes, or vapor of which when inhaled can induce intoxication,	394
excitement, giddiness, irrational behavior, depression,	395
stupefaction, paralysis, unconsciousness, asphyxiation, or other	396
harmful physiological effects, and includes, but is not limited	397
to, any of the following:	398
(a) Any volatile organic solvent, plastic cement, model	399
cement, fingernail polish remover, lacquer thinner, cleaning	400
fluid, gasoline, or other preparation containing a volatile	401
organic solvent;	402
(b) Any aerosol propellant;	403
(c) Any fluorocarbon refrigerant;	404
(d) Any anesthetic gas.	405
(2) Gamma Butyrolactone;	406
(3) 1,4 Butanediol.	407
(J) "Manufacture" means to plant, cultivate, harvest,	408
process, make, prepare, or otherwise engage in any part of the	409
production of a drug, by propagation, extraction, chemical	410
synthesis, or compounding, or any combination of the same, and	411
includes packaging, repackaging, labeling, and other activities	412
incident to production.	413
(K) "Possess" or "possession" means having control over a	414
thing or substance, but may not be inferred solely from mere	415
access to the thing or substance through ownership or occupation	416
of the premises upon which the thing or substance is found.	417
(L) "Sample drug" means a drug or pharmaceutical preparation	418
that would be hazardous to health or safety if used without the	419
supervision of a licensed health professional authorized to	420

prescribe drugs, or a drug of abuse, and that, at one time, had 421
been placed in a container plainly marked as a sample by a 422
manufacturer. 423

(M) "Standard pharmaceutical reference manual" means the 424
current edition, with cumulative changes if any, of any of the 425
following reference works: 426

(1) "The National Formulary"; 427

(2) "The United States Pharmacopeia," prepared by authority 428
of the United States Pharmacopeial Convention, Inc.; 429

(3) Other standard references that are approved by the state 430
board of pharmacy. 431

(N) "Juvenile" means a person under eighteen years of age. 432

(O) "Counterfeit controlled substance" means any of the 433
following: 434

(1) Any drug that bears, or whose container or label bears, a 435
trademark, trade name, or other identifying mark used without 436
authorization of the owner of rights to that trademark, trade 437
name, or identifying mark; 438

(2) Any unmarked or unlabeled substance that is represented 439
to be a controlled substance manufactured, processed, packed, or 440
distributed by a person other than the person that manufactured, 441
processed, packed, or distributed it; 442

(3) Any substance that is represented to be a controlled 443
substance but is not a controlled substance or is a different 444
controlled substance; 445

(4) Any substance other than a controlled substance that a 446
reasonable person would believe to be a controlled substance 447
because of its similarity in shape, size, and color, or its 448
markings, labeling, packaging, distribution, or the price for 449
which it is sold or offered for sale. 450

(P) An offense is "committed in the vicinity of a school" if 451
the offender commits the offense on school premises, in a school 452
building, or within one thousand feet of the boundaries of any 453
school premises, regardless of whether the offender knows the 454
offense is being committed on school premises, in a school 455
building, or within one thousand feet of the boundaries of any 456
school premises. 457

(Q) "School" means any school operated by a board of 458
education, any community school established under Chapter 3314. of 459
the Revised Code, or any nonpublic school for which the state 460
board of education prescribes minimum standards under section 461
3301.07 of the Revised Code, whether or not any instruction, 462
extracurricular activities, or training provided by the school is 463
being conducted at the time a criminal offense is committed. 464

(R) "School premises" means either of the following: 465

(1) The parcel of real property on which any school is 466
situated, whether or not any instruction, extracurricular 467
activities, or training provided by the school is being conducted 468
on the premises at the time a criminal offense is committed; 469

(2) Any other parcel of real property that is owned or leased 470
by a board of education of a school, the governing authority of a 471
community school established under Chapter 3314. of the Revised 472
Code, or the governing body of a nonpublic school for which the 473
state board of education prescribes minimum standards under 474
section 3301.07 of the Revised Code and on which some of the 475
instruction, extracurricular activities, or training of the school 476
is conducted, whether or not any instruction, extracurricular 477
activities, or training provided by the school is being conducted 478
on the parcel of real property at the time a criminal offense is 479
committed. 480

(S) "School building" means any building in which any of the 481

instruction, extracurricular activities, or training provided by a 482
school is conducted, whether or not any instruction, 483
extracurricular activities, or training provided by the school is 484
being conducted in the school building at the time a criminal 485
offense is committed. 486

(T) "Disciplinary counsel" means the disciplinary counsel 487
appointed by the board of commissioners on grievances and 488
discipline of the supreme court under the Rules for the Government 489
of the Bar of Ohio. 490

(U) "Certified grievance committee" means a duly constituted 491
and organized committee of the Ohio state bar association or of 492
one or more local bar associations of the state of Ohio that 493
complies with the criteria set forth in Rule V, section 6 of the 494
Rules for the Government of the Bar of Ohio. 495

(V) "Professional license" means any license, permit, 496
certificate, registration, qualification, admission, temporary 497
license, temporary permit, temporary certificate, or temporary 498
registration that is described in divisions (W)(1) to (36) of this 499
section and that qualifies a person as a professionally licensed 500
person. 501

(W) "Professionally licensed person" means any of the 502
following: 503

(1) A person who has obtained a license as a manufacturer of 504
controlled substances or a wholesaler of controlled substances 505
under Chapter 3719. of the Revised Code; 506

(2) A person who has received a certificate or temporary 507
certificate as a certified public accountant or who has registered 508
as a public accountant under Chapter 4701. of the Revised Code and 509
who holds an Ohio permit issued under that chapter; 510

(3) A person who holds a certificate of qualification to 511
practice architecture issued or renewed and registered under 512

Chapter 4703. of the Revised Code;	513
(4) A person who is registered as a landscape architect under	514
Chapter 4703. of the Revised Code or who holds a permit as a	515
landscape architect issued under that chapter;	516
(5) A person licensed under Chapter 4707. of the Revised	517
Code;	518
(6) A person who has been issued a certificate of	519
registration as a registered barber under Chapter 4709. of the	520
Revised Code;	521
(7) A person licensed and regulated to engage in the business	522
of a debt pooling company by a legislative authority, under	523
authority of Chapter 4710. of the Revised Code;	524
(8) A person who has been issued a cosmetologist's license,	525
hair designer's license, manicurist's license, esthetician's	526
license, natural hair stylist's license, managing cosmetologist's	527
license, managing hair designer's license, managing manicurist's	528
license, managing esthetician's license, managing natural hair	529
stylist's license, cosmetology instructor's license, hair design	530
instructor's license, manicurist instructor's license, esthetics	531
instructor's license, natural hair style instructor's license,	532
independent contractor's license, or tanning facility permit under	533
Chapter 4713. of the Revised Code;	534
(9) A person who has been issued a license to practice	535
dentistry, a general anesthesia permit, a conscious intravenous	536
sedation permit, a limited resident's license, a limited teaching	537
license, a dental hygienist's license, or a dental hygienist's	538
teacher's certificate under Chapter 4715. of the Revised Code;	539
(10) A person who has been issued an embalmer's license, a	540
funeral director's license, a funeral home license, or a crematory	541
license, or who has been registered for an embalmer's or funeral	542
director's apprenticeship under Chapter 4717. of the Revised Code;	543

(11) A person who has been licensed as a registered nurse or	544
practical nurse, or who has been issued a certificate for the	545
practice of nurse-midwifery under Chapter 4723. of the Revised	546
Code;	547
(12) A person who has been licensed to practice optometry or	548
to engage in optical dispensing under Chapter 4725. of the Revised	549
Code;	550
(13) A person licensed to act as a pawnbroker under Chapter	551
4727. of the Revised Code;	552
(14) A person licensed to act as a precious metals dealer	553
under Chapter 4728. of the Revised Code;	554
(15) A person licensed as a pharmacist, a pharmacy intern, a	555
wholesale distributor of dangerous drugs, or a terminal	556
distributor of dangerous drugs, <u>or a person certified as a</u>	557
<u>pharmacy technician</u> , under Chapter 4729. of the Revised Code;	558
(16) A person who is authorized to practice as a physician	559
assistant under Chapter 4730. of the Revised Code;	560
(17) A person who has been issued a certificate to practice	561
medicine and surgery, osteopathic medicine and surgery, a limited	562
branch of medicine, or podiatry under Chapter 4731. of the Revised	563
Code;	564
(18) A person licensed as a psychologist or school	565
psychologist under Chapter 4732. of the Revised Code;	566
(19) A person registered to practice the profession of	567
engineering or surveying under Chapter 4733. of the Revised Code;	568
(20) A person who has been issued a license to practice	569
chiropractic under Chapter 4734. of the Revised Code;	570
(21) A person licensed to act as a real estate broker or real	571
estate salesperson under Chapter 4735. of the Revised Code;	572
(22) A person registered as a registered sanitarian under	573

Chapter 4736. of the Revised Code;	574
(23) A person licensed to operate or maintain a junkyard	575
under Chapter 4737. of the Revised Code;	576
(24) A person who has been issued a motor vehicle salvage	577
dealer's license under Chapter 4738. of the Revised Code;	578
(25) A person who has been licensed to act as a steam	579
engineer under Chapter 4739. of the Revised Code;	580
(26) A person who has been issued a license or temporary	581
permit to practice veterinary medicine or any of its branches, or	582
who is registered as a graduate animal technician under Chapter	583
4741. of the Revised Code;	584
(27) A person who has been issued a hearing aid dealer's or	585
fitter's license or trainee permit under Chapter 4747. of the	586
Revised Code;	587
(28) A person who has been issued a class A, class B, or	588
class C license or who has been registered as an investigator or	589
security guard employee under Chapter 4749. of the Revised Code;	590
(29) A person licensed and registered to practice as a	591
nursing home administrator under Chapter 4751. of the Revised	592
Code;	593
(30) A person licensed to practice as a speech-language	594
pathologist or audiologist under Chapter 4753. of the Revised	595
Code;	596
(31) A person issued a license as an occupational therapist	597
or physical therapist under Chapter 4755. of the Revised Code;	598
(32) A person who is licensed as a professional clinical	599
counselor or professional counselor, licensed as a social worker	600
or independent social worker, or registered as a social work	601
assistant under Chapter 4757. of the Revised Code;	602
(33) A person issued a license to practice dietetics under	603

Chapter 4759. of the Revised Code; 604

(34) A person who has been issued a license or limited permit 605
to practice respiratory therapy under Chapter 4761. of the Revised 606
Code; 607

(35) A person who has been issued a real estate appraiser 608
certificate under Chapter 4763. of the Revised Code; 609

(36) A person who has been admitted to the bar by order of 610
the supreme court in compliance with its prescribed and published 611
rules. 612

(X) "Cocaine" means any of the following: 613

(1) A cocaine salt, isomer, or derivative, a salt of a 614
cocaine isomer or derivative, or the base form of cocaine; 615

(2) Coca leaves or a salt, compound, derivative, or 616
preparation of coca leaves, including ecgonine, a salt, isomer, or 617
derivative of ecgonine, or a salt of an isomer or derivative of 618
ecgonine; 619

(3) A salt, compound, derivative, or preparation of a 620
substance identified in division (X)(1) or (2) of this section 621
that is chemically equivalent to or identical with any of those 622
substances, except that the substances shall not include 623
decocainized coca leaves or extraction of coca leaves if the 624
extractions do not contain cocaine or ecgonine. 625

(Y) "L.S.D." means lysergic acid diethylamide. 626

(Z) "Hashish" means the resin or a preparation of the resin 627
contained in marihuana, whether in solid form or in a liquid 628
concentrate, liquid extract, or liquid distillate form. 629

(AA) "Marihuana" has the same meaning as in section 3719.01 630
of the Revised Code, except that it does not include hashish. 631

(BB) An offense is "committed in the vicinity of a juvenile" 632
if the offender commits the offense within one hundred feet of a 633

juvenile or within the view of a juvenile, regardless of whether 634
the offender knows the age of the juvenile, whether the offender 635
knows the offense is being committed within one hundred feet of or 636
within view of the juvenile, or whether the juvenile actually 637
views the commission of the offense. 638

(CC) "Presumption for a prison term" or "presumption that a 639
prison term shall be imposed" means a presumption, as described in 640
division (D) of section 2929.13 of the Revised Code, that a prison 641
term is a necessary sanction for a felony in order to comply with 642
the purposes and principles of sentencing under section 2929.11 of 643
the Revised Code. 644

(DD) "Major drug offender" has the same meaning as in section 645
2929.01 of the Revised Code. 646

(EE) "Minor drug possession offense" means either of the 647
following: 648

(1) A violation of section 2925.11 of the Revised Code as it 649
existed prior to July 1, 1996; 650

(2) A violation of section 2925.11 of the Revised Code as it 651
exists on and after July 1, 1996, that is a misdemeanor or a 652
felony of the fifth degree. 653

(FF) "Mandatory prison term" has the same meaning as in 654
section 2929.01 of the Revised Code. 655

(GG) "Crack cocaine" means a compound, mixture, preparation, 656
or substance that is or contains any amount of cocaine that is 657
analytically identified as the base form of cocaine or that is in 658
a form that resembles rocks or pebbles generally intended for 659
individual use. 660

(HH) "Adulterate" means to cause a drug to be adulterated as 661
described in section 3715.63 of the Revised Code. 662

(II) "Public premises" means any hotel, restaurant, tavern, 663

store, arena, hall, or other place of public accommodation, 664
business, amusement, or resort. 665

(JJ) "Methamphetamine" means methamphetamine, any salt, 666
isomer, or salt of an isomer of methamphetamine, or any compound, 667
mixture, preparation, or substance containing methamphetamine or 668
any salt, isomer, or salt of an isomer of methamphetamine. 669

Sec. 2925.09. (A) No person shall administer, dispense, 670
distribute, manufacture, possess, sell, or use any drug, other 671
than a controlled substance, that is not approved by the United 672
States food and drug administration, or the United States 673
department of agriculture, unless one of the following applies: 674

(1) The United States food and drug administration has 675
approved an application for investigational use in accordance with 676
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 677
21 U.S.C.A. 301, as amended, and the drug is used only for the 678
approved investigational use; 679

(2) The United States department of agriculture has approved 680
an application for investigational use in accordance with the 681
federal "Virus-Serum-Toxin Act," 37 Stat. 832 (1913), 21 U.S.C.A. 682
151, as amended, and the drug is used only for the approved 683
investigational use; 684

(3) A licensed health professional authorized to prescribe 685
drugs, other than a veterinarian, prescribes or combines two or 686
more drugs as a single product for medical purposes; 687

(4) A pharmacist, ~~pursuant to a prescription or a pharmacy~~ 688
intern or pharmacy technician working under the direct supervision 689
of a pharmacist as authorized by Chapter 4729. of the Revised 690
Code, compounds and dispenses two or more drugs as a single 691
product for medical purposes pursuant to a prescription. 692

(B)(1) As used in this division, "dangerous drug," 693

"prescription," "sale at retail," "wholesale distributor of
dangerous drugs," and "terminal distributor of dangerous drugs,"
have the same meanings as in section 4729.01 of the Revised Code.

(2) Except as provided in division (B)(3) of this section, no
person shall administer, dispense, distribute, manufacture,
possess, sell, or use any dangerous drug to or for livestock or
any animal that is generally used for food or in the production of
food, unless the drug is prescribed by a licensed veterinarian by
prescription or other written order and the drug is used in
accordance with the veterinarian's order or direction.

(3) Division (B)(2) of this section does not apply to a
registered wholesale distributor of dangerous drugs, a licensed
terminal distributor of dangerous drugs, or a person who
possesses, possesses for sale, or sells, at retail, a drug in
accordance with Chapters 3719., 4729., or 4741. of the Revised
Code.

(C) Whoever violates division (A) or (B)(2) of this section
is guilty of a felony of the fifth degree on a first offense and
of a felony of the fourth degree on each subsequent offense.

Sec. 3715.01. (A) As used in this chapter:

(1) "Public health council" means the public health council
established by section 3701.33 of the Revised Code.

(2) "Person" means an individual, partnership, corporation,
or association.

(3) "Food" means:

(a) Articles used for food or drink for humans or animals;

(b) Chewing gum;

(c) Articles used for components of any such articles.

(4) "Drug" means:

(a) Articles recognized in the United States pharmacopoeia	723
and national formulary, or any supplement to them;	724
(b) Articles intended for use in the diagnosis, cure,	725
mitigation, treatment, or prevention of disease in humans or	726
animals;	727
(c) Articles, other than food, intended to affect the	728
structure or any function of the body of humans or other animals;	729
(d) Articles intended for use as a component of any of the	730
foregoing articles, other than devices or their components, parts,	731
or accessories.	732
(5) "Device," except when used in division (B)(1) of this	733
section and in division (A)(10) of section 3715.52, division (F)	734
of section 3715.60, division (A)(5) of section 3715.64, and	735
division (C) of section 3715.67 of the Revised Code, means any	736
instrument, apparatus, implement, machine, contrivance, implant,	737
in vitro reagent, or other similar or related article, including	738
any component, part, or accessory, that is any of the following:	739
(a) Recognized in the United States pharmacopoeia and	740
national formulary, or any supplement to them;	741
(b) Intended for use in the diagnosis of disease or other	742
conditions, or in the cure, mitigation, treatment, or prevention	743
of disease in humans or animals;	744
(c) Intended to affect the structure or any function of the	745
body of humans or animals, and that does not achieve any of its	746
principal intended purposes through chemical action within or on	747
the body of humans or animals and is not dependent upon being	748
metabolized for the achievement of any of its principal intended	749
purposes.	750
(6) "Cosmetic" means:	751
(a) Articles intended to be rubbed, poured, sprinkled, or	752

sprayed on, introduced into, or otherwise applied to the human 753
body or any part thereof for cleansing, beautifying, promoting 754
attractiveness, or altering the appearance; 755

(b) Articles intended for use as a component of any such 756
article, except that "cosmetic" does not include soap. 757

(7) "Label" means a display of written, printed, or graphic 758
matter upon the immediate container, exclusive of package liners, 759
of any article. 760

Any word, statement, or other information required by this 761
chapter to appear on the label must appear on the outside 762
container or wrapper, if any, of the retail package of the 763
article, or the label must be easily legible through the outside 764
container or wrapper. 765

(8) "Labeling" means all labels and other written, printed, 766
or graphic matter: 767

(a) Upon an article or any of its containers or wrappers; 768

(b) Accompanying such article. 769

(9) "Advertisement" means all representations disseminated in 770
any manner or by any means, other than by labeling, for the 771
purpose of inducing, or that are likely to induce, directly or 772
indirectly, the purchase of food, drugs, devices, or cosmetics. 773

(10) "New drug" means: 774

(a) Any drug the composition of which is such that the drug 775
is not generally recognized among experts qualified by scientific 776
training and experience to evaluate the safety of drugs, as safe 777
for use under the conditions prescribed, recommended, or suggested 778
in the labeling thereof; 779

(b) Any drug the composition of which is such that the drug, 780
as a result of investigation to determine its safety for use under 781
such conditions, has become so recognized, but that has not, other 782

than in an investigation, been used to a material extent or for a 783
material time under such conditions. 784

(11) "Contaminated with filth" applies to any food, drug, 785
device, or cosmetic that has not been protected as far as may be 786
necessary by all reasonable means from dust, dirt, and all foreign 787
or injurious substances. 788

(12) "Honey" means the nectar and saccharine exudation of 789
plants that has been gathered, modified, and stored in a honeycomb 790
by honeybees. 791

(13) "Finished dosage form" means the form of a drug that is, 792
or is intended to be, dispensed or administered to humans or 793
animals and requires no further manufacturing or processing other 794
than packaging, reconstituting, or labeling. 795

(14)(a) "Manufacture" means the planting, cultivating, 796
harvesting, processing, making, preparing, or otherwise engaging 797
in any part of the production of a drug by propagating, 798
compounding, converting, or processing, either directly or 799
indirectly by extracting from substances of natural origin, or 800
independently by means of chemical synthesis, or by a combination 801
of extraction and chemical synthesis, and includes the following: 802

(i) Any packaging or repackaging of the drug or labeling or 803
relabeling of its container, the promotion and marketing of the 804
drug, and other activities incident to production; 805

(ii) The preparation and promotion of commercially available 806
products from bulk compounds for resale by pharmacies, licensed 807
health professionals authorized to prescribe drugs, or other 808
persons. 809

(b) "Manufacture" does not include the preparation, 810
compounding, packaging, or labeling of a drug by a pharmacist, or 811
a pharmacy intern or pharmacy technician working under the direct 812
supervision of a pharmacist as authorized by Chapter 4729. of the 813

Revised Code, as an incident to either of the following: 814

(i) Dispensing a drug in the usual course of professional 815
practice or work; 816

(ii) Providing a licensed health professional authorized to 817
prescribe drugs with a drug for the purpose of administering to 818
patients or for using the drug in treating patients in the 819
professional's office. 820

(15) "Dangerous drug" has the same meaning as in section 821
4729.01 of the Revised Code. 822

(16) "Generically equivalent drug" means a drug that contains 823
identical amounts of the identical active ingredients, but not 824
necessarily containing the same inactive ingredients, that meets 825
the identical compendial or other applicable standard of identity, 826
strength, quality, and purity, including potency, and where 827
applicable, content uniformity, disintegration times, or 828
dissolution rates, as the prescribed brand name drug and the 829
manufacturer or distributor holds, if applicable, either an 830
approved new drug application or an approved abbreviated new drug 831
application unless other approval by law or from the federal food 832
and drug administration is required. 833

No drug shall be considered a generically equivalent drug for 834
the purposes of this chapter if it has been listed by the federal 835
food and drug administration as having proven bioequivalence 836
problems. 837

(17) "Licensed health professional authorized to prescribe 838
drugs" and "prescriber" have the same meanings as in section 839
4729.01 of the Revised Code. 840

(18) "Home" means the primary residence occupied by the 841
residence's owner, on the condition that the residence contains 842
only one stove or oven used for cooking, which may be a double 843
oven, designed for common residence usage and not for commercial 844

usage, and that the stove or oven be operated in an ordinary 845
kitchen within the residence. 846

(19) "Potentially hazardous food" means a food that is 847
natural or synthetic, to which any of the following apply: 848

(a) It has a pH level greater than 4.6 when measured at 849
seventy-five degrees fahrenheit or twenty-four degrees celsius. 850

(b) It has a water activity value greater than 0.85. 851

(c) It requires temperature control because it is in a form 852
capable of supporting the rapid and progressive growth of 853
infectious or toxigenic microorganisms, the growth and toxin 854
production of clostridium botulinum, or in the case of raw shell 855
eggs, the growth of salmonella enteritidis. 856

(20) "Cottage food production operation" means a person who, 857
in the person's home, produces food items that are not potentially 858
hazardous foods, including bakery products, jams, jellies, candy, 859
fruit butter, and similar products specified in rules adopted 860
pursuant to section 3715.025 of the Revised Code. 861

(B) For the purposes of sections 3715.52 to 3715.72 of the 862
Revised Code: 863

(1) If an article is alleged to be misbranded because the 864
labeling is misleading, or if an advertisement is alleged to be 865
false because it is misleading, then in determining whether the 866
labeling or advertisement is misleading, there shall be taken into 867
account, among other things, not only representations made or 868
suggested by statement, word, design, device, sound, or in any 869
combination thereof, but also the extent to which the labeling or 870
advertisement fails to reveal facts material in the light of such 871
representations or material with respect to consequence which may 872
result from the use of the article to which the labeling or 873
advertisement relates under the conditions of use prescribed in 874
the labeling or advertisement thereof or under such conditions of 875

use as are customary or usual. 876

(2) The provisions regarding the selling of food, drugs, 877
devices, or cosmetics include the manufacture, production, 878
processing, packing, exposure, offer, possession, and holding of 879
any such article for sale; and the sale, dispensing, and giving of 880
any such article, and the supplying or applying of any such 881
articles in the conduct of any food, drug, or cosmetic 882
establishment. The provisions do not prohibit a licensed health 883
professional authorized to prescribe drugs from administering or 884
personally furnishing a drug or device to a patient. 885

(3) The representation of a drug, in its labeling or 886
advertisement, as an antiseptic is a representation that it is a 887
germicide, except in the case of a drug purporting to be, or 888
represented as, an antiseptic for inhibitory use as a wet 889
dressing, ointment, dusting powder, or other use that involves 890
prolonged contact with the body. 891

(4) Whenever jurisdiction is vested in the director of 892
agriculture or the state board of pharmacy, the jurisdiction of 893
the board shall be limited to the sale, offering for sale, giving 894
away, delivery, or dispensing in any manner of drugs at the 895
wholesale and retail levels or to the consumer and shall be 896
exclusive in the case of such sale, offering for sale, giving 897
away, delivery, or dispensing in any manner of drugs at the 898
wholesale and retail levels or to the consumer in any place where 899
prescriptions are dispensed or compounded. 900

(5) To assist in effectuating the provisions of those 901
sections, the director of agriculture or state board of pharmacy 902
may request assistance or data from any government or private 903
agency or individual. 904

Sec. 3715.64. (A) A drug or device is misbranded within the 905
meaning of sections 3715.01 and 3715.52 to 3715.72 of the Revised 906

Code, if: 907

(1) Its labeling is false or misleading in any particular. 908

(2) It is in package form and does not bear a label 909
containing both of the following: 910

(a) In clearly legible form, the name and place of business 911
of the manufacturer, packer, or distributor; 912

(b) An accurate statement of the quantity of the contents in 913
terms of weight, measure, or numerical count; but reasonable 914
variations shall be permitted, and exemptions as to small packages 915
shall apply as established by rules adopted by the director of 916
agriculture or state board of pharmacy. 917

(3) It is a dangerous drug and does not bear a label 918
containing in clearly legible form the name and place of business 919
of the manufacturer of the finished dosage form and, if different, 920
the packer or distributor. 921

(4) It is a dangerous drug in finished solid oral dosage form 922
and it does not have clearly and prominently marked or imprinted 923
on it an individual symbol, company name, national drug code 924
number or other number, words, letters, or any combination 925
thereof, identifying the drug and its manufacturer or distributor. 926
This requirement does not apply to drugs that are compounded by a 927
licensed pharmacist or by a licensed pharmacy intern or certified 928
pharmacy technician working under the direct supervision of a 929
pharmacist as authorized by Chapter 4729. of the Revised Code. The 930
manufacturer or distributor of each such drug shall make available 931
to the state board of pharmacy descriptive material identifying 932
the mark or imprint used by the manufacturer or distributor. The 933
board shall provide this information to all poison control centers 934
in this state. Upon application by a manufacturer or distributor, 935
the board may exempt a drug from the requirements of this division 936
on the grounds that marking or imprinting the drug is not feasible 937

because of its size, texture, or other unique characteristic. 938

(5) Any word, statement, or other information that is 939
required by or under authority of sections 3715.01 and 3715.52 to 940
3715.72 of the Revised Code to appear on the label or labeling is 941
not prominently placed on the label or labeling in a conspicuous 942
manner, as compared with other words, statements, designs, or 943
devices on the label or labeling, and in terms that render it 944
likely to be read and understood by the ordinary individual under 945
customary conditions of purchase and use. 946

(6) It is a drug and it is not designated solely by a name 947
recognized in the United States pharmacopoeia and national 948
formulary, or any supplement to them, unless its label bears: 949

(a) The common or usual name of the drug, if any; 950

(b) In case it is fabricated from two or more ingredients, 951
the common or usual name of each active ingredient the drug 952
contains, including the kind and quantity or proportion of any 953
alcohol, and also including whether active or not, the name and 954
quantity or proportion of any bromides, ether, chloroform, 955
acetanalid, acetophenetidin, aminopyrine, atropine, hyoscine, 956
hyoscyamine, arsenic, digitalis, digitalis glycosides, mercury, 957
ouabain, strophanthin, strychnine, thyroïd, or any derivative or 958
preparation of any such substances; but to the extent that 959
compliance with these requirements is impracticable, exemptions 960
shall apply as established by rules adopted by the director of 961
agriculture or state board of pharmacy. 962

(7) Its labeling does not bear the following: 963

(a) Adequate directions for use of the drug or device, except 964
that when compliance with this requirement is not necessary for a 965
particular drug or device to protect the public health, the 966
director shall adopt rules exempting the drug or device from the 967
requirement; 968

(b) Adequate warnings against use in those pathological 969
conditions or by children when its use may be dangerous to health, 970
or against unsafe dosage or methods or duration of administration 971
or application, presented in a manner and form as necessary for 972
the protection of users. 973

(8) It purports to be a drug the name of which is recognized 974
in the United States pharmacopoeia and national formulary, or any 975
supplement to them, and it is not packaged and labeled as 976
prescribed in those compendiums, except that the method of packing 977
may be modified with the consent of the director of agriculture. 978
Whenever a drug is recognized in both the homoeopathic 979
pharmacopoeia of the United States and in the United States 980
pharmacopoeia and national formulary, including their supplements, 981
it shall be subject to the requirements of the United States 982
pharmacopoeia and national formulary with respect to packaging and 983
labeling unless it is labeled and offered for sale as a 984
homoeopathic drug, in which case it shall be subject to the 985
provisions of the homoeopathic pharmacopoeia of the United States 986
and not to those of the United States pharmacopoeia and national 987
formulary. 988

(9) It has been found by the director of agriculture to be a 989
drug liable to deterioration, unless it is packaged in the form 990
and manner, and its label bears a statement of precautions, as 991
required by rules adopted by the director as necessary for the 992
protection of public health. No rule shall be established for any 993
drug recognized in the United States pharmacopoeia and national 994
formulary, or any supplements to them, until the director has 995
informed the appropriate bodies charged with the revision of those 996
compendiums of the need for packaging or labeling requirements and 997
those bodies have failed within a reasonable time to prescribe 998
such requirements. 999

(10)(a) It is a drug and its container is so made, formed, or 1000

filled as to be misleading. 1001

(b) It is an imitation of another drug. 1002

(c) It is offered for sale under the name of another drug. 1003

(d) The drug sold or dispensed is not the brand or drug 1004
specifically prescribed or ordered or, when dispensed by a 1005
pharmacist upon prescription, is neither the brand or drug 1006
prescribed nor a generically equivalent drug. 1007

(11) It is dangerous to health when used in the dosage, or 1008
with the frequency or duration prescribed, recommended, or 1009
suggested in its labeling. 1010

(12) It is a drug intended for human use to which the 1011
following apply: 1012

(a) Because of its toxicity or other potentiality for harmful 1013
effect, the method of its use, or the collateral measures 1014
necessary to its use, the drug is not safe for use except under 1015
the supervision of a licensed health professional authorized to 1016
prescribe drugs; 1017

(b) The drug is limited by an effective application under 1018
section 505 of the "Federal Food, Drug, and Cosmetic Act," 52 1019
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, to use under 1020
professional supervision by a licensed health professional 1021
authorized to prescribe drugs, unless it is dispensed only: 1022

(i) Upon a written or electronic prescription; 1023

(ii) Upon an oral prescription, which is reduced promptly to 1024
writing by the pharmacist; 1025

(iii) By refilling a prescription if refilling is authorized 1026
by the prescriber either in the original prescription or by oral 1027
order, which is promptly reduced to writing by the pharmacist. 1028

(B) Any drug dispensed pursuant to a written, electronic, or 1029
oral prescription of a licensed health professional authorized to 1030

prescribe drugs shall be exempt from the requirements of division 1031
(A) of this section, except divisions (A)(1) and (10) of this 1032
section, if the drug bears a label containing the name and address 1033
of the dispenser, the serial number and the date the prescription 1034
is dispensed, the name of the prescriber, the name of the patient, 1035
and, if stated in the prescription, the directions for use and 1036
cautionary statements. Unless the prescription directions prohibit 1037
labeling, the label shall include the brand name of the drug 1038
dispensed. If the drug dispensed has no brand name, the generic 1039
name and the distributor of the finished dosage form shall be 1040
included. 1041

Sec. 3719.01. As used in this chapter: 1042

(A) "Administer" means the direct application of a drug, 1043
whether by injection, inhalation, ingestion, or any other means to 1044
a person or an animal. 1045

(B) "Drug enforcement administration" means the drug 1046
enforcement administration of the United States department of 1047
justice or its successor agency. 1048

(C) "Controlled substance" means a drug, compound, mixture, 1049
preparation, or substance included in schedule I, II, III, IV, or 1050
V. 1051

(D) "Dangerous drug" has the same meaning as in section 1052
4729.01 of the Revised Code. 1053

(E) "Dispense" means to sell, leave with, give away, dispose 1054
of, or deliver. 1055

(F) "Distribute" means to deal in, ship, transport, or 1056
deliver but does not include administering or dispensing a drug. 1057

(G) "Drug" has the same meaning as in section 4729.01 of the 1058
Revised Code. 1059

(H) "Drug abuse offense," "felony drug abuse offense," 1060

"cocaine," and "hashish" have the same meanings as in section 1061
2925.01 of the Revised Code. 1062

(I) "Federal drug abuse control laws" means the 1063
"Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 1064
Stat. 1242, 21 U.S.C. 801, as amended. 1065

(J) "Hospital" means an institution for the care and 1066
treatment of the sick and injured that is certified by the 1067
department of health and approved by the state board of pharmacy 1068
as proper to be entrusted with the custody of controlled 1069
substances and the professional use of controlled substances. 1070

(K) "Hypodermic" means a hypodermic syringe or needle, or 1071
other instrument or device for the injection of medication. 1072

(L) "Isomer," except as otherwise expressly stated, means the 1073
optical isomer. 1074

(M) "Laboratory" means a laboratory approved by the state 1075
board of pharmacy as proper to be entrusted with the custody of 1076
controlled substances and the use of controlled substances for 1077
scientific and clinical purposes and for purposes of instruction. 1078

(N) "Manufacturer" means a person who manufactures a 1079
controlled substance, as "manufacture" is defined in section 1080
3715.01 of the Revised Code. 1081

(O) "Marihuana" means all parts of a plant of the genus 1082
cannabis, whether growing or not; the seeds of a plant of that 1083
type; the resin extracted from a part of a plant of that type; and 1084
every compound, manufacture, salt, derivative, mixture, or 1085
preparation of a plant of that type or of its seeds or resin. 1086
"Marihuana" does not include the mature stalks of the plant, fiber 1087
produced from the stalks, oils or cake made from the seeds of the 1088
plant, or any other compound, manufacture, salt, derivative, 1089
mixture, or preparation of the mature stalks, except the resin 1090
extracted from the mature stalks, fiber, oil or cake, or the 1091

sterilized seed of the plant that is incapable of germination. 1092

(P) "Narcotic drugs" means coca leaves, opium, isonipecaine, 1093
amidone, isoamidone, ketobemidone, as defined in this division, 1094
and every substance not chemically distinguished from them and 1095
every drug, other than cannabis, that may be included in the 1096
meaning of "narcotic drug" under the federal drug abuse control 1097
laws. As used in this division: 1098

(1) "Coca leaves" includes cocaine and any compound, 1099
manufacture, salt, derivative, mixture, or preparation of coca 1100
leaves, except derivatives of coca leaves, that does not contain 1101
cocaine, ecgonine, or substances from which cocaine or ecgonine 1102
may be synthesized or made. 1103

(2) "Isonipecaine" means any substance identified chemically 1104
as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or 1105
any salt thereof, by whatever trade name designated. 1106

(3) "Amidone" means any substance identified chemically as 1107
4-4-diphenyl-6-dimethylamino-heptanone-3, or any salt thereof, by 1108
whatever trade name designated. 1109

(4) "Isoamidone" means any substance identified chemically as 1110
4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3, or any salt 1111
thereof, by whatever trade name designated. 1112

(5) "Ketobemidone" means any substance identified chemically 1113
as 4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone 1114
hydrochloride, or any salt thereof, by whatever trade name 1115
designated. 1116

(Q) "Official written order" means an order written on a form 1117
provided for that purpose by the director of the United States 1118
drug enforcement administration, under any laws of the United 1119
States making provision for the order, if the order forms are 1120
authorized and required by federal law. 1121

(R) "Opiate" means any substance having an addiction-forming 1122
or addiction-sustaining liability similar to morphine or being 1123
capable of conversion into a drug having addiction-forming or 1124
addiction-sustaining liability. "Opiate" does not include, unless 1125
specifically designated as controlled under section 3719.41 of the 1126
Revised Code, the dextrorotatory isomer of 1127
3-methoxy-N-methylmorphinan and its salts (dextro-methorphan). 1128
"Opiate" does include its racemic and levoratory forms. 1129

(S) "Opium poppy" means the plant of the species papaver 1130
somniferum L., except its seeds. 1131

(T) "Person" means any individual, corporation, government, 1132
governmental subdivision or agency, business trust, estate, trust, 1133
partnership, association, or other legal entity. 1134

(U) "Pharmacist" means a person licensed under Chapter 4729. 1135
of the Revised Code to engage in the practice of pharmacy. 1136

(V) "Pharmacy" has the same meaning as in section 4729.01 of 1137
the Revised Code. 1138

(W) "Poison" means any drug, chemical, or preparation likely 1139
to be deleterious or destructive to adult human life in quantities 1140
of four grams or less. 1141

(X) "Poppy straw" means all parts, except the seeds, of the 1142
opium poppy, after mowing. 1143

(Y) "Licensed health professional authorized to prescribe 1144
drugs," "prescriber," and "prescription" have the same meanings as 1145
in section 4729.01 of the Revised Code. 1146

(Z) "Registry number" means the number assigned to each 1147
person registered under the federal drug abuse control laws. 1148

(AA) "Sale" includes delivery, barter, exchange, transfer, or 1149
gift, or offer thereof, and each transaction of those natures made 1150
by any person, whether as principal, proprietor, agent, servant, 1151

or employee. 1152

(BB) "Schedule I," "schedule II," "schedule III," "schedule 1153
IV," and "schedule V" mean controlled substance schedules I, II, 1154
III, IV, and V, respectively, established pursuant to section 1155
3719.41 of the Revised Code, as amended pursuant to section 1156
3719.43 or 3719.44 of the Revised Code. 1157

(CC) "Wholesaler" means a person who, on official written 1158
orders other than prescriptions, supplies controlled substances 1159
that the person has not manufactured, produced, or prepared 1160
personally and includes a "wholesale distributor of dangerous 1161
drugs" as defined in section 4729.01 of the Revised Code. 1162

(DD) "Animal shelter" means a facility operated by a humane 1163
society or any society organized under Chapter 1717. of the 1164
Revised Code or a dog pound operated pursuant to Chapter 955. of 1165
the Revised Code. 1166

(EE) "Terminal distributor of dangerous drugs" has the same 1167
meaning as in section 4729.01 of the Revised Code. 1168

(FF) "Category III license" means a license issued to a 1169
terminal distributor of dangerous drugs as set forth in section 1170
4729.54 of the Revised Code. 1171

(GG) "Prosecutor" has the same meaning as in section 2935.01 1172
of the Revised Code. 1173

(HH) "Pharmacy intern" means a person licensed under Chapter 1174
4729. of the Revised Code to participate in the pharmacy intern 1175
program established by the state board of pharmacy. 1176

(II) "Pharmacy technician" means a person certified under 1177
Chapter 4729. of the Revised Code to work as a pharmacy 1178
technician. 1179

Sec. 3719.12. Unless a report has been made pursuant to 1180
section 2929.42 of the Revised Code, on the conviction of a 1181

manufacturer, wholesaler, terminal distributor of dangerous drugs, 1182
pharmacist, pharmacy intern, pharmacy technician, dentist, 1183
chiropractor, physician, podiatrist, registered nurse, licensed 1184
practical nurse, physician assistant, optometrist, or veterinarian 1185
of the violation of this chapter or Chapter 2925. of the Revised 1186
Code, the prosecutor in the case promptly shall report the 1187
conviction to the board that licensed, certified, or registered 1188
the person to practice or to carry on business. The responsible 1189
board shall provide forms to the prosecutor. Within thirty days of 1190
the receipt of this information, the board shall initiate action 1191
in accordance with Chapter 119. of the Revised Code to determine 1192
whether to suspend or revoke the person's license, certificate, or 1193
registration. 1194

Sec. 3719.121. (A) Except as otherwise provided in section 1195
4723.28, 4723.35, 4729.16, 4730.25, 4731.22, 4734.39, or 4734.41 1196
of the Revised Code, the license, certificate, or registration of 1197
any dentist, chiropractor, physician, podiatrist, registered 1198
nurse, licensed practical nurse, physician assistant, pharmacist, 1199
pharmacy intern, pharmacy technician, optometrist, or veterinarian 1200
who is or becomes addicted to the use of controlled substances 1201
shall be suspended by the board that authorized the person's 1202
license, certificate, or registration until the person offers 1203
satisfactory proof to the board that the person no longer is 1204
addicted to the use of controlled substances. 1205

(B) If the board under which a person has been issued a 1206
license, certificate, or evidence of registration determines that 1207
there is clear and convincing evidence that continuation of the 1208
person's professional practice or method of prescribing or 1209
personally furnishing controlled substances presents a danger of 1210
immediate and serious harm to others, the board may suspend the 1211
person's license, certificate, or registration without a hearing. 1212
Except as otherwise provided in sections 4715.30, 4723.281, 1213

4729.16, 4730.25, 4731.22, and 4734.36 of the Revised Code, the
board shall follow the procedure for suspension without a prior
hearing in section 119.07 of the Revised Code. The suspension
shall remain in effect, unless removed by the board, until the
board's final adjudication order becomes effective, except that if
the board does not issue its final adjudication order within
ninety days after the hearing, the suspension shall be void on the
ninety-first day after the hearing.

(C) On receiving notification pursuant to section 2929.42 or
3719.12 of the Revised Code, the board under which a person has
been issued a license, certificate, or evidence of registration
immediately shall suspend the license, certificate, or
registration of that person on a plea of guilty to, a finding by a
jury or court of the person's guilt of, or conviction of a felony
drug abuse offense; a finding by a court of the person's
eligibility for intervention in lieu of conviction; a plea of
guilty to, or a finding by a jury or court of the person's guilt
of, or the person's conviction of an offense in another
jurisdiction that is essentially the same as a felony drug abuse
offense; or a finding by a court of the person's eligibility for
treatment or intervention in lieu of conviction in another
jurisdiction. The board shall notify the holder of the license,
certificate, or registration of the suspension, which shall remain
in effect until the board holds an adjudicatory hearing under
Chapter 119. of the Revised Code.

Sec. 4303.34. The sale of alcohol under G and I permits is
subject to the following restrictions in addition to those imposed
by the rules or orders of the division of liquor control:

(A) All sales under such permits shall be made by the
licensed pharmacist in charge of the store or by a licensed
pharmacy intern, or certified pharmacy technician working under

the direct supervision of a pharmacist and lawfully employed 1245
therein. 1246

(B) All sales to hospitals, infirmaries, and medical or 1247
educational institutions for the uses authorized by such permits 1248
shall be made only upon the written, signed, dated, and sworn 1249
application of the superintendent of such institution. 1250

(C) All sales of alcohol to physicians, dentists, and 1251
veterinary surgeons shall be made only on the written, signed, 1252
dated, and sworn application of such physician, dentist, or 1253
veterinary surgeon, personally presented by the applicant. 1254

(D) All sales of alcohol for mechanical, chemical, or 1255
scientific purposes shall be made only upon the written 1256
application of the purchaser known by the pharmacist, or a 1257
pharmacy intern or pharmacy technician working under the direct 1258
supervision of a pharmacist, to be a person engaged in such 1259
mechanical, chemical, or scientific pursuits, which application 1260
shall be dated, signed, and sworn to by the purchaser. 1261

All applications required by this section shall state clearly 1262
and specifically the kind and quantity of alcohol required and the 1263
use to which it is to be put by the person purchasing it, and that 1264
the person will not use any of the alcohol procured for any other 1265
use than that stated in the application. 1266

All prescriptions and applications required by this section 1267
shall be canceled as soon as filled by the person filling the 1268
same, by having "canceled" plainly written or stamped thereon and 1269
signed and dated by the person who filled the same, and shall be 1270
kept open to public inspection. No person shall furnish alcohol 1271
more than once on any such prescription or application. 1272

Each holder of such a permit shall register in an 1273
alphabetically arranged book, kept exclusively for that purpose, 1274
all prescriptions of physicians and dentists, in the following 1275

order: the name of the physician or dentist, the name of the 1276
person prescribed for, the quantity and kind of alcohol, and the 1277
use for which prescribed. 1278

The person making the sale shall indorse upon the 1279
prescription the date upon which it was filled and the person's 1280
own name. Each such holder shall keep a record of applications, 1281
showing the date of each, by whom made, the quantity and kind of 1282
alcohol supplied, and when, where, and for what purpose and by 1283
whom such alcohol was to be used. Each applicant shall certify to 1284
the same by signing the applicant's name in such record book. Such 1285
book shall be open at all times during business hours to the 1286
inspection of the division. 1287

Any licensed pharmacist or pharmacy intern, or certified 1288
pharmacy technician, may administer the oath required by this 1289
section. 1290

Sec. 4729.01. As used in this chapter: 1291

(A) "Pharmacy," except when used in a context that refers to 1292
the practice of pharmacy, means any area, room, rooms, place of 1293
business, department, or portion of any of the foregoing where the 1294
practice of pharmacy is conducted. 1295

(B) "Practice of pharmacy" means providing pharmacist care 1296
requiring specialized knowledge, judgment, and skill derived from 1297
the principles of biological, chemical, behavioral, social, 1298
pharmaceutical, and clinical sciences. As used in this division, 1299
"pharmacist care" includes the following: 1300

(1) Interpreting prescriptions; 1301

(2) Dispensing drugs and drug therapy related devices; 1302

(3) Compounding drugs; 1303

(4) Counseling individuals with regard to their drug therapy, 1304
recommending drug therapy related devices, and assisting in the 1305

selection of drugs and appliances for treatment of common diseases	1306
and injuries and providing instruction in the proper use of the	1307
drugs and appliances;	1308
(5) Performing drug regimen reviews with individuals by	1309
discussing all of the drugs that the individual is taking and	1310
explaining the interactions of the drugs;	1311
(6) Performing drug utilization reviews with licensed health	1312
professionals authorized to prescribe drugs when the pharmacist	1313
determines that an individual with a prescription has a drug	1314
regimen that warrants additional discussion with the prescriber;	1315
(7) Advising an individual and the health care professionals	1316
treating an individual with regard to the individual's drug	1317
therapy;	1318
(8) Acting pursuant to a consult agreement with a physician	1319
authorized under Chapter 4731. of the Revised Code to practice	1320
medicine and surgery or osteopathic medicine and surgery, if an	1321
agreement has been established with the physician;	1322
(9) Administering the adult immunizations specified in	1323
section 4729.41 of the Revised Code, if the pharmacist has met the	1324
requirements of that section.	1325
(C) "Compounding" means the preparation, mixing, assembling,	1326
packaging, and labeling of one or more drugs in any of the	1327
following circumstances:	1328
(1) Pursuant to a prescription issued by a licensed health	1329
professional authorized to prescribe drugs;	1330
(2) Pursuant to the modification of a prescription made in	1331
accordance with a consult agreement;	1332
(3) As an incident to research, teaching activities, or	1333
chemical analysis;	1334
(4) In anticipation of orders for drugs pursuant to	1335

prescriptions, based on routine, regularly observed dispensing 1336
patterns; 1337

(5) Pursuant to a request made by a licensed health 1338
professional authorized to prescribe drugs for a drug that is to 1339
be used by the professional for the purpose of direct 1340
administration to patients in the course of the professional's 1341
practice, if all of the following apply: 1342

(a) At the time the request is made, the drug is not 1343
commercially available regardless of the reason that the drug is 1344
not available, including the absence of a manufacturer for the 1345
drug or the lack of a readily available supply of the drug from a 1346
manufacturer. 1347

(b) A limited quantity of the drug is compounded and provided 1348
to the professional. 1349

(c) The drug is compounded and provided to the professional 1350
as an occasional exception to the normal practice of dispensing 1351
drugs pursuant to patient-specific prescriptions. 1352

(D) "Consult agreement" means an agreement to manage an 1353
individual's drug therapy that has been entered into by a 1354
pharmacist and a physician authorized under Chapter 4731. of the 1355
Revised Code to practice medicine and surgery or osteopathic 1356
medicine and surgery. 1357

(E) "Drug" means: 1358

(1) Any article recognized in the United States pharmacopoeia 1359
and national formulary, or any supplement to them, intended for 1360
use in the diagnosis, cure, mitigation, treatment, or prevention 1361
of disease in humans or animals; 1362

(2) Any other article intended for use in the diagnosis, 1363
cure, mitigation, treatment, or prevention of disease in humans or 1364
animals; 1365

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

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

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

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

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(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 1396
law to prescribe drugs or dangerous drugs or drug therapy related 1397
devices in the course of the individual's professional practice, 1398
including only the following: 1399

(1) A dentist licensed under Chapter 4715. of the Revised 1400
Code; 1401

(2) A clinical nurse specialist, certified nurse-midwife, or 1402
certified nurse practitioner who holds a certificate to prescribe 1403
issued under section 4723.48 of the Revised Code; 1404

(3) An optometrist licensed under Chapter 4725. of the 1405
Revised Code to practice optometry under a therapeutic 1406
pharmaceutical agents certificate; 1407

(4) A physician authorized under Chapter 4731. of the Revised 1408
Code to practice medicine and surgery, osteopathic medicine and 1409
surgery, or podiatry; 1410

(5) A physician assistant who holds a certificate to 1411
prescribe issued under Chapter 4730. of the Revised Code; 1412

(6) A veterinarian licensed under Chapter 4741. of the 1413
Revised Code. 1414

(J) "Sale" and "sell" include delivery, transfer, barter, 1415
exchange, or gift, or offer therefor, and each such transaction 1416
made by any person, whether as principal proprietor, agent, or 1417
employee. 1418

(K) "Wholesale sale" and "sale at wholesale" mean any sale in 1419
which the purpose of the purchaser is to resell the article 1420
purchased or received by the purchaser. 1421

(L) "Retail sale" and "sale at retail" mean any sale other 1422
than a wholesale sale or sale at wholesale. 1423

(M) "Retail seller" means any person that sells any dangerous 1424
drug to consumers without assuming control over and responsibility 1425

for its administration. Mere advice or instructions regarding 1426
administration do not constitute control or establish 1427
responsibility. 1428

(N) "Price information" means the price charged for a 1429
prescription for a particular drug product and, in an easily 1430
understandable manner, all of the following: 1431

(1) The proprietary name of the drug product; 1432

(2) The established (generic) name of the drug product; 1433

(3) The strength of the drug product if the product contains 1434
a single active ingredient or if the drug product contains more 1435
than one active ingredient and a relevant strength can be 1436
associated with the product without indicating each active 1437
ingredient. The established name and quantity of each active 1438
ingredient are required if such a relevant strength cannot be so 1439
associated with a drug product containing more than one 1440
ingredient. 1441

(4) The dosage form; 1442

(5) The price charged for a specific quantity of the drug 1443
product. The stated price shall include all charges to the 1444
consumer, including, but not limited to, the cost of the drug 1445
product, professional fees, handling fees, if any, and a statement 1446
identifying professional services routinely furnished by the 1447
pharmacy. Any mailing fees and delivery fees may be stated 1448
separately without repetition. The information shall not be false 1449
or misleading. 1450

(O) "Wholesale distributor of dangerous drugs" means a person 1451
engaged in the sale of dangerous drugs at wholesale and includes 1452
any agent or employee of such a person authorized by the person to 1453
engage in the sale of dangerous drugs at wholesale. 1454

(P) "Manufacturer of dangerous drugs" means a person, other 1455

than a pharmacist, who manufactures dangerous drugs and who is 1456
engaged in the sale of those dangerous drugs within this state. 1457

(Q) "Terminal distributor of dangerous drugs" means a person 1458
who is engaged in the sale of dangerous drugs at retail, or any 1459
person, other than a wholesale distributor or a pharmacist, who 1460
has possession, custody, or control of dangerous drugs for any 1461
purpose other than for that person's own use and consumption, and 1462
includes pharmacies, hospitals, nursing homes, and laboratories 1463
and all other persons who procure dangerous drugs for sale or 1464
other distribution by or under the supervision of a pharmacist or 1465
licensed health professional authorized to prescribe drugs. 1466

(R) "Promote to the public" means disseminating a 1467
representation to the public in any manner or by any means, other 1468
than by labeling, for the purpose of inducing, or that is likely 1469
to induce, directly or indirectly, the purchase of a dangerous 1470
drug at retail. 1471

(S) "Person" includes any individual, partnership, 1472
association, limited liability company, or corporation, the state, 1473
any political subdivision of the state, and any district, 1474
department, or agency of the state or its political subdivisions. 1475

(T) "Finished dosage form" has the same meaning as in section 1476
3715.01 of the Revised Code. 1477

(U) "Generically equivalent drug" has the same meaning as in 1478
section 3715.01 of the Revised Code. 1479

(V) "Animal shelter" means a facility operated by a humane 1480
society or any society organized under Chapter 1717. of the 1481
Revised Code or a dog pound operated pursuant to Chapter 955. of 1482
the Revised Code. 1483

(W) "Food" has the same meaning as in section 3715.01 of the 1484
Revised Code. 1485

(X) "Pharmacy technician" means an individual who has been 1486
issued a certificate and identification card under section 4729.43 1487
of the Revised Code to work as a pharmacy technician in this 1488
state. 1489

Sec. 4729.06. (A) The state board of pharmacy shall keep a 1490
record of its proceedings and a register of all persons to whom 1491
identification cards and licenses or certificates have been 1492
granted as pharmacists ~~or~~, pharmacy interns, and pharmacy 1493
technicians together with each renewal and suspension or 1494
revocation of an identification card and license or certificate. 1495
The books and registers of the board shall be prima-facie evidence 1496
of the matters therein recorded. The president and executive 1497
director of the board may administer oaths. 1498

~~A statement signed by the executive director to which is~~ 1499
~~affixed the official seal of the board to the effect that it~~ 1500
~~appears from the records of the board that the board has not~~ 1501
~~issued an identification card and license to practice pharmacy, or~~ 1502
~~any of its branches, to the person specified in the statement, or~~ 1503
~~that an identification card and license, if issued, has been~~ 1504
~~revoked or suspended, shall be received as prima facie evidence of~~ 1505
~~the record of the board in any court or before any officer of this~~ 1506
~~state.~~ 1507

(B) A court or officer of this state shall receive as 1508
prima-facie evidence of the record of the board a statement, 1509
signed by the board's executive director and containing the 1510
board's official seal, providing for either or both of the 1511
following: 1512

(1) That the records of the board show that the board has not 1513
issued an identification card and license to practice pharmacy or 1514
any of its branches, or an identification card and certificate to 1515
work as a pharmacy technician, to the person specified in the 1516

statement; 1517

(2) That the records of the board show that an identification 1518
card and license or certificate, if issued, has been revoked or 1519
suspended. 1520

Sec. 4729.15. The state board of pharmacy shall charge the 1521
following fees: 1522

(A) For applying for a license to practice as a pharmacist, 1523
an amount adequate to cover all rentals, compensation for 1524
proctors, and other expenses of the board related to examination 1525
except the expenses of procuring and grading the examination, 1526
which fee shall not be returned if the applicant fails to pass the 1527
examination; 1528

(B) For the examination of an applicant for licensure as a 1529
pharmacist, an amount adequate to cover any expenses to the board 1530
of procuring and grading the examination or any part thereof, 1531
which fee shall not be returned if the applicant fails to pass the 1532
examination; 1533

(C) For issuing a license and an identification card to an 1534
individual who passes the examination described in section 4729.07 1535
of the Revised Code or applies for a certificate to work as a 1536
pharmacy technician, an amount that is adequate to cover the 1537
expense; 1538

(D) For a pharmacist or pharmacy technician applying for 1539
renewal of an identification card ~~within~~ not later than sixty days 1540
after the expiration date, ninety-seven dollars and fifty cents or 1541
the amount determined by the board, respectively, which fee shall 1542
not be returned if the applicant fails to qualify for renewal; 1543

(E) For a pharmacist or pharmacy technician applying for 1544
renewal of an identification card that has lapsed for more than 1545
sixty days, but for less than three years, one hundred thirty-five 1546

dollars or the amount determined by the board, respectively, which 1547
fee shall not be returned if the applicant fails to qualify for 1548
renewal; 1549

(F) For a pharmacist or pharmacy technician applying for 1550
renewal of an identification card that has lapsed for more than 1551
three years, three hundred thirty-seven dollars and fifty cents or 1552
the amount determined by the board, respectively, which fee shall 1553
not be returned if the applicant fails to qualify for renewal; 1554

(G) For a pharmacist applying for a license and 1555
identification card, on presentation of a pharmacist license 1556
granted by another state, three hundred thirty-seven dollars and 1557
fifty cents, which fee shall not be returned if the applicant 1558
fails to qualify for licensure. 1559

(H) For a license and identification card to practice as a 1560
pharmacy intern, twenty-two dollars and fifty cents, which fee 1561
shall not be returned if the applicant fails to qualify for 1562
licensure; 1563

(I) For the renewal of a pharmacy intern identification card, 1564
twenty-two dollars and fifty cents, which fee shall not be 1565
returned if the applicant fails to qualify for renewal; 1566

(J) For a certificate and identification card to practice as 1567
a pharmacy technician, an amount determined by the board not to 1568
exceed fifty dollars, which fee shall not be returned if the 1569
applicant fails to qualify for licensure; 1570

(K) For issuing a replacement license to a pharmacist, 1571
twenty-two dollars and fifty cents; 1572

~~(K)~~(L) For issuing a replacement license to a pharmacy intern 1573
or a replacement certificate to a pharmacy technician, seven 1574
dollars and fifty cents; 1575

~~(L)~~(M) For issuing a replacement identification card to a 1576

pharmacist, thirty-seven dollars and fifty cents, or pharmacy 1577
intern or pharmacy technician, seven dollars and fifty cents; 1578

~~(M)~~(N) For certifying licensure and grades for reciprocal 1579
licensure, ten dollars; 1580

~~(N)~~(O) For making copies of any application, affidavit, or 1581
other document filed in the state board of pharmacy office, an 1582
amount fixed by the board that is adequate to cover the expense, 1583
except that for copies required by federal or state agencies or 1584
law enforcement officers for official purposes, no charge need be 1585
made; 1586

~~(O)~~(P) For certifying and affixing the seal of the board, an 1587
amount fixed by the board that is adequate to cover the expense, 1588
except that for certifying and affixing the seal of the board to a 1589
document required by federal or state agencies or law enforcement 1590
officers for official purposes, no charge need be made; 1591

~~(P)~~(Q) For each copy of a book or pamphlet that includes laws 1592
administered by the state board of pharmacy, rules adopted by the 1593
board, and chapters of the Revised Code with which the board is 1594
required to comply, an amount fixed by the board that is adequate 1595
to cover the expense of publishing and furnishing the book or 1596
pamphlet. 1597

Sec. 4729.16. (A) The state board of pharmacy, after notice 1598
and hearing in accordance with Chapter 119. of the Revised Code, 1599
may revoke, suspend, limit, place on probation, or refuse to grant 1600
or renew an identification card, or may impose a monetary penalty 1601
or forfeiture not to exceed in severity any fine designated under 1602
the Revised Code for a similar offense, or in the case of a 1603
violation of a section of the Revised Code that does not bear a 1604
penalty, a monetary penalty or forfeiture of not more than five 1605
hundred dollars, if the board finds ~~a pharmacist or pharmacy~~ 1606
intern an individual licensed under, or who has applied for 1607

licensure under, section 4729.08, 4729.09, or 4729.11 of the 1608
Revised Code, or an individual certified under, or who has applied 1609
for certification under, section 4729.42 or 4729.43 of the Revised 1610
Code: 1611

(1) Guilty of a felony or gross immorality; 1612

(2) Guilty of dishonesty or unprofessional conduct in the 1613
practice of pharmacy or work as a pharmacy technician; 1614

(3) Addicted to or abusing liquor or drugs or impaired 1615
physically or mentally to such a degree as to render the 1616
~~pharmacist or pharmacy intern~~ individual unfit to practice 1617
pharmacy or to work as a pharmacy technician; 1618

(4) Has been convicted of a misdemeanor related to, or 1619
committed in, the practice of pharmacy or work as a pharmacy 1620
technician; 1621

(5) Guilty of willfully violating, conspiring to violate, 1622
attempting to violate, or aiding and abetting the violation of any 1623
of the provisions of this chapter, sections 3715.52 to 3715.72 of 1624
the Revised Code, Chapter 2925. or 3719. of the Revised Code, or 1625
any rule adopted by the board under those provisions; 1626

(6) Guilty of permitting anyone other than a pharmacist or 1627
pharmacy intern to practice pharmacy or anyone other than a 1628
pharmacy technician to work as a pharmacy technician; 1629

(7) Guilty of knowingly lending the pharmacist's or pharmacy 1630
intern's name to an illegal practitioner of pharmacy or having 1631
professional connection with an illegal practitioner of pharmacy; 1632

(8) Guilty of dividing or agreeing to divide remuneration 1633
made in the practice of pharmacy with any other individual, 1634
including, but not limited to, any licensed health professional 1635
authorized to prescribe drugs or any owner, manager, or employee 1636
of a health care facility, residential care facility, or nursing 1637

home; 1638

(9) Has violated the terms of a consult agreement entered 1639
into pursuant to section 4729.39 of the Revised Code; 1640

(10) Has committed fraud, misrepresentation, or deception in 1641
applying for or securing a license, certificate, or identification 1642
card issued by the board under this chapter or under Chapter 3715. 1643
or 3719. of the Revised Code. 1644

(B) Any individual whose identification card is revoked, 1645
suspended, or refused, shall return the identification card and 1646
license or certificate to the offices of the state board of 1647
pharmacy within ten days after receipt of notice of such action. 1648

(C) As used in this section: 1649

"Unprofessional conduct in the practice of pharmacy" includes 1650
any of the following: 1651

(1) Advertising or displaying signs that promote dangerous 1652
drugs to the public in a manner that is false or misleading; 1653

(2) Except as provided in section 4729.281 of the Revised 1654
Code, the sale of any drug for which a prescription is required, 1655
without having received a prescription for the drug; 1656

(3) Knowingly dispensing medication pursuant to false or 1657
forged prescriptions; 1658

(4) Knowingly failing to maintain complete and accurate 1659
records of all dangerous drugs received or dispensed in compliance 1660
with federal laws and regulations and state laws and rules; 1661

(5) Obtaining any remuneration by fraud, misrepresentation, 1662
or deception. 1663

(D) The board may suspend a license, certificate, or 1664
identification card under division (B) of section 3719.121 of the 1665
Revised Code by utilizing a telephone conference call to review 1666
the allegations and take a vote. 1667

(E) If, pursuant to an adjudication under Chapter 119. of the Revised Code, the board has reasonable cause to believe that a pharmacist ~~or, pharmacy intern, or pharmacy technician~~ is physically or mentally impaired, the board may require the pharmacist ~~or, pharmacy intern, or pharmacy technician~~ to submit to a physical or mental examination, or both.

Sec. 4729.18. The state board of pharmacy shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for approving and designating physicians and facilities as treatment providers for ~~pharmacists~~ individuals licensed under section 4729.08, 4729.09, or 4729.11 of the Revised Code, or individuals certified under section 4729.43 of the Revised Code, with substance abuse problems and shall approve and designate treatment providers in accordance with the rules. The rules shall include standards for both inpatient and outpatient treatment. The rules shall provide that to be approved, a treatment provider must be capable of making an initial examination to determine the type of treatment required for a ~~pharmacist licensee or certificate holder~~ individuals licensed under section 4729.08, 4729.09, or 4729.11 of the Revised Code, or individuals certified under section 4729.43 of the Revised Code, with substance abuse problems. Subject to the rules, the board shall review and approve treatment providers on a regular basis and may, at its discretion, withdraw or deny approval.

An approved treatment provider shall:

(A) Report to the board the name of any ~~pharmacist licensee or certificate holder~~ individuals licensed under section 4729.08, 4729.09, or 4729.11 of the Revised Code, or individuals certified under section 4729.43 of the Revised Code, suffering or showing evidence of suffering impairment by reason of being addicted to or abusing liquor or drugs as described in division (A)(3) of section 4729.16 of the Revised Code who fails to comply within one week with a referral for examination;

(B) Report to the board the name of any impaired ~~pharmacist licensee or certificate holder~~ individuals licensed under section 4729.08, 4729.09, or 4729.11 of the Revised Code, or individuals certified under section 4729.43 of the Revised Code, who fails to enter treatment within forty-eight hours following the provider's determination that the

~~pharmacist~~ licensee or certificate holder needs treatment; 1699

(C) Require every ~~pharmacist~~ licensee or certificate holder 1700
who enters treatment to agree to a treatment contract establishing 1701
the terms of treatment and aftercare, including any required 1702
supervision or restrictions of practice or work during treatment 1703
or aftercare; 1704

(D) Require a ~~pharmacist~~ licensee or certificate holder to 1705
suspend practice or work on entering any required inpatient 1706
treatment; 1707

(E) Report to the board any failure by an impaired ~~pharmacist~~ 1708
licensee or certificate holder to comply with the terms of the 1709
treatment contract during inpatient or outpatient treatment or 1710
aftercare; 1711

(F) Report to the board the resumption of practice or work of 1712
any impaired ~~pharmacist~~ licensee or certificate holder before the 1713
treatment provider has made a clear determination that the 1714
~~pharmacist~~ licensee or certificate holder is capable of practicing 1715
or working according to acceptable and prevailing standards; 1716

(G) Require a ~~pharmacist~~ licensee or certificate holder who 1717
resumes practice or work after completion of treatment to comply 1718
with an aftercare contract that meets the requirements of rules 1719
adopted by the board for approval of treatment providers; 1720

(H) Report to the board any ~~pharmacist~~ licensee or 1721
certificate holder who suffers a relapse at any time during or 1722
following aftercare. 1723

Any ~~pharmacist~~ licensee or certificate holder who enters into 1724
treatment by an approved treatment provider shall be deemed to 1725
have waived any confidentiality requirements that would otherwise 1726
prevent the treatment provider from making reports required under 1727
this section. 1728

In the absence of fraud or bad faith, no professional 1729
association of pharmacists or pharmacy interns technicians 1730
licensed under this chapter, or pharmacy technicians certified 1731
under this chapter, that sponsors a committee or program to 1732
provide peer assistance to ~~pharmacists~~ licensees or certificate 1733
holders with substance abuse problems, no representative or agent 1734
of such a committee or program, and no member of the state board 1735
of pharmacy shall be liable to any person for damages in a civil 1736
action by reason of actions taken to refer a ~~pharmacist~~ licensee 1737
or certificate holder to a treatment provider designated by the 1738
board or actions or omissions of the provider in treating a 1739
~~pharmacist~~ licensee or certificate holder. 1740

In the absence of fraud or bad faith, no person who reports 1741
to the board a ~~pharmacist~~ licensee or certificate holder with a 1742
suspected substance abuse problem shall be liable to any person 1743
for damages in a civil action as a result of the report. 1744

Sec. 4729.26. The state board of pharmacy may adopt rules in 1745
accordance with Chapter 119. of the Revised Code, not inconsistent 1746
with the law, as may be necessary to carry out the purposes of and 1747
to enforce the provisions of this chapter. The rules shall be 1748
published and made available by the board to each pharmacist and 1749
pharmacy intern licensed, and each pharmacy technician certified, 1750
under this chapter. 1751

Sec. 4729.271. A person who owns, manages, or conducts a 1752
pharmacy shall do both of the following with respect to 1753
individuals who are not licensed pharmacists or pharmacy interns, 1754
nor certified pharmacy technicians, but who aid such individuals 1755
in the operation of the pharmacy: 1756

(A) Create and maintain a record on each aide; 1757

(B) Develop a written policy regarding the activities the 1758

aides are authorized to perform and educate the aides regarding 1759
the policy. 1760

Sec. 4729.28. ~~No~~ (A) Subject to division (B) of this section, 1761
no person who is not a pharmacist, or a pharmacy intern or 1762
pharmacy technician working under the personal supervision of a 1763
pharmacist as authorized by this chapter, shall compound, 1764
dispense, or sell dangerous drugs or otherwise engage in the 1765
practice of pharmacy or work as a pharmacy technician. 1766

(B) Division (A) of this section does not prohibit an 1767
individual not licensed or certified under this chapter from 1768
performing retail sales clerk functions, including registering 1769
sales transactions at point of sale terminals or electronic cash 1770
registers. 1771

Sec. 4729.38. (A) Unless instructed otherwise by the person 1772
receiving the drug pursuant to the prescription, a pharmacist 1773
filling a prescription for a drug prescribed by its brand name may 1774
select a generically equivalent drug, as defined in section 1775
3715.01 of the Revised Code, subject to the following conditions: 1776

(1) The pharmacist shall not select a generically equivalent 1777
drug if the prescriber handwrites "dispense as written," or 1778
"D.A.W.," on the written prescription, or, when ordering a 1779
prescription electronically or orally, the prescriber specifies 1780
that the prescribed drug is medically necessary. These 1781
designations shall not be preprinted or stamped on the 1782
prescription. Division (A)(1) of this section does not preclude a 1783
reminder of the procedure required to prohibit the selection of a 1784
generically equivalent drug from being preprinted on the 1785
prescription. 1786

(2) The pharmacist shall not select a generically equivalent 1787
drug unless its price to the patient is less than or equal to the 1788

price of the prescribed drug. 1789

(3) The pharmacist, or ~~the pharmacist's a pharmacy intern,~~ 1790
~~pharmacy technician, or~~ agent, ~~aide,~~ assistant, or employee of the 1791
~~pharmacist~~ shall inform the patient or the patient's agent if a 1792
generically equivalent drug is available at a lower or equal cost, 1793
and of the person's right to refuse the drug selected. Division 1794
(A)(3) of this section does not apply to any: 1795

(a) Prescription that is billed to any agency, division, or 1796
department of this state which will reimburse the pharmacy; 1797

(b) Prescriptions for patients of a hospital, nursing home, 1798
or similar patient care facility. 1799

(B) Unless the prescriber instructs otherwise, the label for 1800
every drug dispensed shall include the drug's brand name, if any, 1801
or its generic name and the name of the distributor, using 1802
abbreviations if necessary. When dispensing at retail a 1803
generically equivalent drug for the brand name drug prescribed, 1804
the pharmacist shall indicate on the drug's label or container 1805
that a generic substitution was made. The labeling requirements 1806
established by this division are in addition to all other labeling 1807
requirements of Chapter 3715. of the Revised Code. 1808

(C) A pharmacist who selects a generically equivalent drug 1809
pursuant to this section assumes no greater liability for 1810
selecting the dispensed drug than would be incurred in filling a 1811
prescription for a drug prescribed by its brand name. 1812

(D) The failure of a prescriber to restrict a prescription by 1813
specifying "dispense as written," or "D.A.W.," pursuant to 1814
division (A)(1) of this section shall not constitute evidence of 1815
the prescriber's negligence unless the prescriber had reasonable 1816
cause to believe that the health condition of the patient for whom 1817
the drug was intended warranted the prescription of a specific 1818
brand name drug and no other. No prescriber shall be liable for 1819

civil damages or in any criminal prosecution arising from the 1820
interchange of a generically equivalent drug for a prescribed 1821
brand name drug by a pharmacist, unless the prescribed brand name 1822
drug would have reasonably caused the same loss, damage, injury, 1823
or death. 1824

Sec. 4729.42. (A) An individual desiring to be certified to 1825
work as a pharmacy technician in this state shall file with the 1826
executive director of the state board of pharmacy a written 1827
application for certification as a pharmacy technician, under 1828
oath, on a form prescribed by the board. The application shall be 1829
accompanied by the fee required by division (C) of section 4729.15 1830
of the Revised Code. An application filed under this section may 1831
not be withdrawn without the approval of the board. 1832

(B) At the time of application, the applicant shall meet all 1833
of the following requirements: 1834

(1) Be eighteen years of age or older; 1835

(2) Possess a high school diploma or the equivalent of a high 1836
school diploma, as determined by the board; 1837

(3) Have results of a criminal records check completed and 1838
sent to the board by the bureau of criminal identification and 1839
investigation indicating that the individual has not been 1840
convicted of, pleaded guilty to, or had a judicial finding of 1841
guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 1842
2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 1843
of the Revised Code or a substantially similar law of another 1844
state, the United States, or another country. The records check 1845
shall include a check of federal bureau of investigation records. 1846

(4) Have submitted written evidence satisfactory to the board 1847
of either of the following: 1848

(a) That the applicant has passed the examination for 1849

pharmacy technician certification administered by the pharmacy 1850
technician certification board or a person with which the pharmacy 1851
technician certification board contracts with to administer the 1852
examination on the board's behalf; 1853

(b) That the applicant has successfully completed both of the 1854
following: 1855

(i) A pharmacy technician educational program that is a 1856
prerequisite to sitting for the examination described in division 1857
(B)(4)(a) of this section or is a program that meets standards 1858
adopted by the board in rules adopted under section 4729.50 of the 1859
Revised Code; 1860

(ii) The minimum number of hours of pharmacy technician 1861
training established by the board in rules adopted under section 1862
4729.50 of the Revised Code. 1863

(C) A pharmacy technician educational program that must be 1864
successfully completed as required by division (B)(4)(b) of this 1865
section may include an employer-sponsored educational program. 1866

Sec. 4729.43. An applicant who submits an application under 1867
section 4729.42 of the Revised Code shall be issued an 1868
identification card and certificate to work as a pharmacy 1869
technician in this state if the board determines that all of the 1870
following are true: 1871

(A) The applicant meets all the requirements of section 1872
4729.42 of the Revised Code. 1873

(B) The applicant satisfies either of the following criteria: 1874

(1) The applicant has not been found by the board to have 1875
committed an act that is grounds for disciplinary action under 1876
section 4729.16 of the Revised Code. 1877

(2) The applicant has been found by the board to have 1878
committed an act that is grounds for disciplinary action under 1879

section 4729.16 of the Revised Code, but the board has determined 1880
that the applicant has made restitution, been rehabilitated, or 1881
both. 1882

Sec. 4729.44. (A) Except as provided in section 4729.49 of 1883
the Revised Code, an identification card issued by the state board 1884
of pharmacy under section 4729.43 of the Revised Code entitles the 1885
individual to whom it is issued to work as a pharmacy technician 1886
in this state until the next biennial renewal date. 1887

(B) Identification cards shall be renewed biennially, on a 1888
date determined by the board, according to the standard renewal 1889
procedure of Chapter 4745. of the Revised Code. 1890

(C) Except as provided in section 4729.49 of the Revised 1891
Code, a pharmacy technician shall, while working as a pharmacy 1892
technician, carry the identification card or renewal 1893
identification card and wear a badge or nameplate that clearly 1894
identifies the technician's name and status as a certified 1895
pharmacy technician. 1896

(D) A pharmacy technician who desires to continue working as 1897
a pharmacy technician shall file with the board an application in 1898
such form and containing such data as the board may require for 1899
renewal of an identification card. An application filed under this 1900
section may not be withdrawn without the approval of the board. If 1901
the board finds that the applicant's card has not been revoked or 1902
placed under suspension and that the applicant has paid the 1903
renewal fee and is entitled to continue being certified as a 1904
pharmacy technician, the board shall issue a renewal 1905
identification card to the applicant. 1906

(E) When an identification card has lapsed for more than 1907
sixty days but application for renewal is made not later than 1908
three years after the expiration of the card, the applicant shall 1909
be issued a renewal identification card if the applicant meets the 1910

requirements of this section and pays a late renewal fee 1911
designated under section 4729.15 of the Revised Code. 1912

(F)(1) Except as provided in division (F)(2) of this section, 1913
when an identification card has lapsed for more than three years 1914
after the expiration of the card, the applicant shall be issued a 1915
renewal card if the applicant meets the requirements of this 1916
section, the additional requirements specified by the board in 1917
rules adopted under section 4729.69 of the Revised Code, and pays 1918
the fee designated under division (F) of section 4729.15 of the 1919
Revised Code. 1920

(2) An applicant described in division (F)(1) of this section 1921
who has continually worked as a pharmacy technician in another 1922
state under a license, certificate, or registration issued by the 1923
authority of that state is exempt from having to meet the 1924
additional requirements specified by the board in rules adopted 1925
under section 4729.50 of the Revised Code. 1926

Sec. 4729.45. A replacement certificate or identification 1927
card may be issued to a person registered with the state board of 1928
pharmacy to work as a pharmacy technician whose certificate or 1929
identification card has been lost or destroyed on the condition 1930
that the applicant, by affidavit, sets forth the facts concerning 1931
the loss or destruction of the previously issued certificate or 1932
identification card. 1933

Sec. 4729.46. (A) Subject to division (C) of this section, a 1934
pharmacy technician may assist a pharmacist or pharmacy intern in 1935
the following activities: 1936

(1) Dispensing drugs in accordance with section 4729.01 of 1937
the Revised Code and procedures established by the board in rules 1938
adopted under section 4729.50 of the Revised Code; 1939

(2) Compounding of drugs in accordance with section 4729.01 1940

of the Revised Code and procedures established by the board in 1941
rules adopted under section 4729.50 of the Revised Code; 1942

(3) Stocking and inventorying prescription drugs; 1943

(4) Any other activity that is for the purpose of assisting a 1944
pharmacist or pharmacy intern as specified by the board in rules 1945
adopted under section 4729.50 of the Revised Code. 1946

(B) In addition to the duties specified in division (A) of 1947
this section, a pharmacy technician working in a nursing home, 1948
residential care facility, or hospital may, subject to division 1949
(C) of this section, do all of the following: 1950

(1) Review patient charts; 1951

(2) In accordance with division (D) of this section, package 1952
in individual doses, label, and deliver to patients medications, 1953
but this authority does not include authority to administer 1954
medications to patients. 1955

(3) Any other duties specified by the board in rules adopted 1956
under section 4729.50 of the Revised Code. 1957

(C) A pharmacy technician may assist in the activities 1958
described in division (A) or (B) of this section only if the 1959
activity is done under the direct supervision of a pharmacist. For 1960
purposes of this division, "direct supervision" means that a 1961
pharmacist is on site, able to provide supervision, and properly 1962
reviews the activities of the pharmacy technician. 1963

(D) If, as described in division (B)(2) of this section, a 1964
pharmacy technician packages or labels medication, or intends to 1965
deliver medication to a patient, prior to delivery of the 1966
medication to the patient, a pharmacist must review the medication 1967
that has been packaged or labeled or is intended to be delivered. 1968

Sec. 4729.47. (A) Except as provided in division (B) of this 1969
section, a pharmacist shall at no time supervise more than three 1970

pharmacy technicians during a work shift. 1971

(B) A pharmacist may supervise more than three pharmacy 1972
technicians during a work shift in accordance with rules the state 1973
board of pharmacy adopts under section 4729.50 of the Revised 1974
Code. 1975

Sec. 4729.48. (A) Except as provided in division (B) of this 1976
section or section 4729.49 of the Revised Code, no individual who 1977
is not a pharmacist or pharmacy intern licensed under this 1978
chapter, or pharmacy technician certified under this chapter, 1979
shall engage in the activities in division (A) of section 4729.46 1980
of the Revised Code. 1981

(B) Division (A) of this section does not prohibit either of 1982
the following: 1983

(1) An individual from performing any services a pharmacist, 1984
pharmacy intern, or pharmacy technician may be authorized to 1985
perform if the person's professional scope of practice established 1986
under any other chapter of the Revised Code authorizes the 1987
individual to perform the services; 1988

(2) An individual who is not certified as a pharmacy 1989
technician under this chapter from doing either of the following: 1990

(a) Performing retail sales clerk functions, including 1991
registering sales transactions at point of sale terminals or 1992
electronic cash registers; 1993

(b) Preparing insurance forms and documentation. 1994

Sec. 4729.49. (A) Subject to divisions (B) and (C) of this 1995
section, an individual who has filed an application for 1996
certification as a pharmacy technician under section 4729.42 of 1997
the Revised Code and whose application is pending may perform the 1998
activities in division (A) or (B) of section 4729.46 of the 1999

Revised Code under the direct supervision of a pharmacist for a 2000
period of time not exceeding one hundred twenty days. 2001

(B) An individual described in division (A) of this section 2002
must wear a badge or nameplate that clearly identifies the 2003
individual's name when the individual performs the activities in 2004
division (A) or (B) of section 4729.46 of the Revised Code. 2005

(C) Division (A) of this section does not apply to an 2006
individual for whom the state board of pharmacy has finished the 2007
review of the individual's application and refused to grant an 2008
identification card as prescribed under section 4729.16 of the 2009
Revised Code. 2010

Sec. 4729.50. The state board of pharmacy shall adopt rules 2011
in accordance with Chapter 119. of the Revised Code to do all of 2012
the following: 2013

(A) For purposes of division (B)(4)(b)(ii) of section 4729.42 2014
of the Revised Code, determine the minimum number of hours of 2015
pharmacy technician training an applicant for certification to 2016
work as a pharmacy technician must successfully complete. 2017

(B) For purposes of division (F) of section 4729.44 of the 2018
Revised Code, specify the additional requirements an individual 2019
must meet to renew an identification card and certificate to work 2020
as a pharmacy technician that has lapsed for more than three years 2021
after expiration. 2022

(C) For purposes of divisions (A) and (B) of section 4729.46 2023
of the Revised Code, establish all of the following: 2024

(1) Procedures pharmacy technicians must follow when 2025
dispensing prescriptions and compounding drugs under a 2026
pharmacist's supervision; 2027

(2) Any activities in addition to those specified in division 2028
(A) of section 4729.46 of the Revised Code that a pharmacy 2029

technician may perform that are for the purpose of assisting a 2030
pharmacist or pharmacy intern; 2031

(3) Any duties in addition to those specified in division (B) 2032
of section 4729.46 of the Revised Code that a pharmacy technician 2033
may perform while working in a nursing home, residential care 2034
facility, or hospital. 2035

(D) For purposes of division (B) of section 4729.47 of the 2036
Revised Code, specify the number of pharmacy technicians beyond 2037
three who may be supervised by a pharmacist during a work shift in 2038
various work settings, including retail pharmacies, hospitals, 2039
clinics, nursing homes, and residential care facilities. In 2040
adopting such rules, the board is not limited to specifying a 2041
uniform number for all settings but may specify different numbers 2042
for each setting as determined appropriate by the board. 2043

Sec. 4729.55. No license shall be issued to an applicant for 2044
licensure as a terminal distributor of dangerous drugs unless the 2045
applicant has furnished satisfactory proof to the state board of 2046
pharmacy that: 2047

(A) The applicant is equipped as to land, buildings, and 2048
equipment to properly carry on the business of a terminal 2049
distributor of dangerous drugs within the category of licensure 2050
approved by the board. 2051

(B) A pharmacist, licensed health professional authorized to 2052
prescribe drugs, animal shelter licensed with the state board of 2053
pharmacy under section 4729.531 of the Revised Code, or a 2054
laboratory as defined in section 3719.01 of the Revised Code will 2055
maintain supervision and control over the possession and custody 2056
of dangerous drugs that may be acquired by or on behalf of the 2057
applicant. 2058

(C) Adequate safeguards are assured to prevent the sale or 2059

other distribution of dangerous drugs by any person other than a 2060
pharmacist or licensed health professional authorized to prescribe 2061
drugs. 2062

(D) Adequate safeguards are assured that the applicant will 2063
carry on the business of a terminal distributor of dangerous drugs 2064
in a manner that allows pharmacists ~~and~~, pharmacy interns, and 2065
pharmacy technicians employed by the terminal distributor to 2066
practice pharmacy or work as pharmacy technicians in a safe and 2067
effective manner. 2068

(E) If the applicant, or any agent or employee of the 2069
applicant, has been found guilty of violating section 4729.51 of 2070
the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 2071
Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control 2072
laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, 2073
or any rule of the board, adequate safeguards are assured to 2074
prevent the recurrence of the violation. 2075

(F) In the case of an applicant who is a food processor or 2076
retail seller of food, the applicant will maintain supervision and 2077
control over the possession and custody of nitrous oxide. 2078

(G) In the case of an applicant who is a retail seller of 2079
oxygen in original packages labeled as required by the "Federal 2080
Food, Drug, and Cosmetic Act," the applicant will maintain 2081
supervision and control over the possession, custody, and retail 2082
sale of the oxygen. 2083

(H) If the application is made on behalf of an animal 2084
shelter, at least one of the agents or employees of the animal 2085
shelter is certified in compliance with section 4729.532 of the 2086
Revised Code. 2087

(I) In the case of an applicant who is a retail seller of 2088
peritoneal dialysis solutions in original packages labeled as 2089
required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 2090

1040 (1938), 21 U.S.C.A. 301, the applicant will maintain 2091
supervision and control over the possession, custody, and retail 2092
sale of the peritoneal dialysis solutions. 2093

Sec. 4729.67. On receipt of a notice pursuant to section 2094
3123.43 of the Revised Code, the state board of pharmacy shall 2095
comply with sections 3123.41 to 3123.50 of the Revised Code and 2096
any applicable rules adopted under section 3123.63 of the Revised 2097
Code with respect to a license, certificate, identification card, 2098
or certificate of registration issued pursuant to this chapter. 2099

Sec. 4729.99. (A) Whoever violates section 4729.16, division 2100
(A) or (B) of section 4729.38, or section 4729.57 of the Revised 2101
Code is guilty of a minor misdemeanor. Each day's violation 2102
constitutes a separate offense. 2103

(B) Whoever violates section 4729.27, 4729.28, ~~or~~ 4729.36, or 2104
4729.48 of the Revised Code is guilty of a misdemeanor of the 2105
third degree. Each day's violation constitutes a separate offense. 2106
If the offender previously has been convicted of or pleaded guilty 2107
to a violation of this chapter, that person is guilty of a 2108
misdemeanor of the second degree. 2109

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of 2110
the Revised Code is guilty of a misdemeanor. 2111

(D) Whoever violates division (A), (B), (D), or (E) of 2112
section 4729.51 of the Revised Code is guilty of a misdemeanor of 2113
the first degree. 2114

(E)(1) Whoever violates section 4729.37, division (C)(2) of 2115
section 4729.51, division (J) of section 4729.54, or section 2116
4729.61 of the Revised Code is guilty of a felony of the fifth 2117
degree. If the offender previously has been convicted of or 2118
pleaded guilty to a violation of this chapter or a violation of 2119
Chapter 2925. or 3719. of the Revised Code, that person is guilty 2120

of a felony of the fourth degree. 2121

(2) If an offender is convicted of or pleads guilty to a 2122
violation of section 4729.37, division (C) of section 4729.51, 2123
division (J) of section 4729.54, or section 4729.61 of the Revised 2124
Code, if the violation involves the sale, offer to sell, or 2125
possession of a schedule I or II controlled substance, with the 2126
exception of marihuana, and if the court imposing sentence upon 2127
the offender finds that the offender as a result of the violation 2128
is a major drug offender, as defined in section 2929.01 of the 2129
Revised Code, and is guilty of a specification of the type 2130
described in section 2941.1410 of the Revised Code, the court, in 2131
lieu of the prison term authorized or required by division (E)(1) 2132
of this section and sections 2929.13 and 2929.14 of the Revised 2133
Code and in addition to any other sanction imposed for the offense 2134
under sections 2929.11 to 2929.18 of the Revised Code, shall 2135
impose upon the offender, in accordance with division (D)(3)(a) of 2136
section 2929.14 of the Revised Code, the mandatory prison term 2137
specified in that division and may impose an additional prison 2138
term under division (D)(3)(b) of that section. 2139

(3) Notwithstanding any contrary provision of section 3719.21 2140
of the Revised Code, the clerk of court shall pay any fine imposed 2141
for a violation of section 4729.37, division (C) of section 2142
4729.51, division (J) of section 4729.54, or section 4729.61 of 2143
the Revised Code pursuant to division (A) of section 2929.18 of 2144
the Revised Code in accordance with and subject to the 2145
requirements of division (F) of section 2925.03 of the Revised 2146
Code. The agency that receives the fine shall use the fine as 2147
specified in division (F) of section 2925.03 of the Revised Code. 2148

(F) Whoever violates section 4729.531 of the Revised Code or 2149
any rule adopted thereunder or section 4729.532 of the Revised 2150
Code is guilty of a misdemeanor of the first degree. 2151

(G) Whoever violates division (C)(1) of section 4729.51 of 2152

the Revised Code is guilty of a felony of the fourth degree. If 2153
the offender has previously been convicted of or pleaded guilty to 2154
a violation of this chapter, or of a violation of Chapter 2925. or 2155
3719. of the Revised Code, that person is guilty of a felony of 2156
the third degree. 2157

(H) Whoever violates division (C)(3) of section 4729.51 of 2158
the Revised Code is guilty of a misdemeanor of the first degree. 2159
If the offender has previously been convicted of or pleaded guilty 2160
to a violation of this chapter, or of a violation of Chapter 2925. 2161
or 3719. of the Revised Code, that person is guilty of a felony of 2162
the fifth degree. 2163

Section 2. That existing sections 2305.234, 2925.01, 2925.09, 2164
3715.01, 3715.64, 3719.01, 3719.12, 3719.121, 4303.34, 4729.01, 2165
4729.06, 4729.15, 4729.16, 4729.18, 4729.26, 4729.28, 4729.38, 2166
4729.55, 4729.67, and 4729.99 of the Revised Code are hereby 2167
repealed. 2168