

AN ACT

To amend sections 1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 3715.872, 3715.873, 4723.16, 4725.33, 4729.161, 4731.226, 4731.23, 4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 and to enact sections 4734.141, 4734.142, 4734.211, 4734.28, 4734.281, 4734.282, 4734.283, 4734.284, 4734.285, and 4734.286 of the Revised Code regarding the practice of acupuncture by chiropractors, the State Medical Board's use of private attorneys as temporary hearing examiners, and to modify the immunity from liability that applies under the Drug Repository Program.

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

SECTION 1. That sections 1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3515.87, 3715.871, 3715.872, 3715.873, 4723.16, 4725.33, 4729.161, 4731.226, 4731.23, 4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 be amended and sections 4734.141, 4734.142, 4734.211, 4734.28, 4734.281, 4734.282, 4734.283, 4734.284, 4734.285, and 4734.286 of the Revised Code be enacted to read as follows:

Sec. 1701.03. (A) A corporation may be formed under this chapter for any purpose or combination of purposes for which individuals lawfully may associate themselves, except that, if the Revised Code contains special provisions pertaining to the formation of any designated type of corporation

other than a professional association, as defined in section 1785.01 of the Revised Code, a corporation of that type shall be formed in accordance with the special provisions.

(B) On and after July 1, 1994, a corporation may be formed under this chapter for the purpose of carrying on the practice of any profession, including, but not limited to, a corporation for the purpose of providing public accounting or certified public accounting services, a corporation for the erection, owning, and conducting of a sanitarium for receiving and caring for patients, medical and hygienic treatment of patients, and instruction of nurses in the treatment of disease and in hygiene, a corporation for the purpose of providing architectural, landscape architectural, professional engineering, or surveying services or any combination of those types of services, and a corporation for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code. This chapter does not restrict, limit, or otherwise affect the authority or responsibilities of any agency, board, commission, department, office, or other entity to license, register, and otherwise regulate the professional conduct of individuals or organizations of any kind rendering professional services, as defined in section 1785.01 of the Revised Code, in this state or to regulate the practice of any profession that is within the jurisdiction of the agency, board, commission, department, office, or other entity, notwithstanding that an individual is a director, officer, employee, or other agent of a corporation formed under this chapter and is rendering professional services or engaging in the practice of a profession through a corporation formed under this chapter or that the organization is a corporation formed under this chapter.

(C) Nothing in division (A) or (B) of this section precludes the organization of a professional association in accordance with this chapter and Chapter 1785. of the Revised Code or the formation of a limited liability company under Chapter 1705. of the Revised Code with respect to a

business, as defined in section 1705.01 of the Revised Code.

(D) No corporation formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, chiropractor practicing acupuncture through the state chiropractic board, psychologist, nurse, pharmacist, physical therapist, mechanotherapist, or doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a corporation described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual practitioner listed in this division.

Sec. 1705.03. (A) A limited liability company may sue and be sued.

(B) Unless otherwise provided in its articles of organization, a limited liability company may take property of any description or any interest in property of any description by gift, devise, or bequest and may make donations for the public welfare or for charitable, scientific, or educational purposes.

(C) In carrying out the purposes stated in its articles of organization or operating agreement and subject to limitations prescribed by law or in its articles of organization or its operating agreement, a limited liability company may do all of the following:

(1) Purchase or otherwise acquire, lease as lessee or lessor, invest in,

hold, use, encumber, sell, exchange, transfer, and dispose of property of any description or any interest in property of any description;

(2) Make contracts;

(3) Form or acquire the control of other domestic or foreign limited liability companies;

(4) Be a shareholder, partner, member, associate, or participant in other profit or nonprofit enterprises or ventures;

(5) Conduct its affairs in this state and elsewhere;

(6) Render in this state and elsewhere a professional service, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code;

(7) Borrow money;

(8) Issue, sell, and pledge its notes, bonds, and other evidences of indebtedness;

(9) Secure any of its obligations by mortgage, pledge, or deed of trust of all or any of its property;

(10) Guarantee or secure obligations of any person;

(11) Do all things permitted by law and exercise all authority within or incidental to the purposes stated in its articles of organization.

(D) In addition to the authority conferred by division (C) of this section and irrespective of the purposes stated in its articles of organization or operating agreement but subject to any limitations stated in those articles or its operating agreement, a limited liability company may invest funds not currently needed in its business in any securities if the investment does not cause the company to acquire control of another enterprise whose activities and operations are not incidental to the purposes stated in the articles of organization of the company.

(E)(1) No lack of authority or limitation upon the authority of a limited liability company shall be asserted in any action except as follows:

- (a) By the state in an action by it against the company;
- (b) By or on behalf of the company in an action against a manager, an officer, or any member as a member;
- (c) By a member as a member in an action against the company, a manager, an officer, or any member as a member;
- (d) In an action involving an alleged improper issue of a membership interest in the company.

(2) Division (E)(1) of this section applies to any action commenced in this state upon any contract made in this state by a foreign limited liability company.

Sec. 1705.04. (A) One or more persons, without regard to residence, domicile, or state of organization, may form a limited liability company. The articles of organization shall be signed and filed with the secretary of state and shall set forth all of the following:

- (1) The name of the company;
- (2) Except as provided in division (B) of this section, the period of its duration, which may be perpetual;
- (3) Any other provisions that are from the operating agreement or that are not inconsistent with applicable law and that the members elect to set out in the articles for the regulation of the affairs of the company.

The legal existence of the company begins upon the filing of the articles of organization or on a later date specified in the articles of organization that is not more than ninety days after the filing.

(B) If the articles of organization or operating agreement do not set forth the period of the duration of the limited liability company, its duration shall be perpetual.

(C) If a limited liability company is formed under this chapter for the purpose of rendering a professional service, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery

authorized under Chapter 4731. of the Revised Code, the following apply:

(1) Each member, employee, or other agent of the company who renders a professional service in this state and, if the management of the company is not reserved to its members, each manager of the company who renders a professional service in this state shall be licensed, certificated, or otherwise legally authorized to render in this state the same kind of professional service; if applicable, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code; or, if applicable, any of the kinds of professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, or doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code.

(2) Each member, employee, or other agent of the company who renders a professional service in another state and, if the management of the company is not reserved to its members, each manager of the company who renders a professional service in another state shall be licensed, certificated, or otherwise legally authorized to render that professional service in the other state.

(D) Except for the provisions of this chapter pertaining to the personal liability of members, employees, or other agents of a limited liability company and, if the management of the company is not reserved to its members, the personal liability of managers of the company, this chapter does not restrict, limit, or otherwise affect the authority or responsibilities of any agency, board, commission, department, office, or other entity to license, certificate, register, and otherwise regulate the professional conduct of individuals or organizations of any kind rendering professional services in this state or to regulate the practice of any profession that is within the jurisdiction of the agency, board, commission, department, office, or other entity, notwithstanding that the individual is a member or manager of a limited liability company and is rendering the professional services or engaging in the practice of the profession through the limited liability company or that the organization is a limited liability company.

(E) No limited liability company formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, chiropractor practicing acupuncture through the state chiropractic board, psychologist, nurse, pharmacist, physical therapist, occupational therapist, mechanotherapist, or doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a limited liability company described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual practitioner listed in this division.

Sec. 1705.53. Subject to any contrary provisions of the Ohio Constitution, the laws of the state under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its members. A foreign limited liability company may not be denied a certificate of registration as a foreign limited liability company in this state because of any difference between the laws of the state under which it is organized and the laws of this state. However, a foreign limited liability company that applies for registration under this chapter to render a professional service in this state, as a condition to obtaining and maintaining a certificate of registration, shall comply with the requirements of division

(C) of section 1705.04 of the Revised Code and shall comply with the requirements of Chapters 4703. and 4733. of the Revised Code if the kinds of professional services authorized under those chapters are to be rendered or with the requirements of Chapters 4723., 4725., 4729., 4731., 4732., 4734., and 4755. of the Revised Code if a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code are to be rendered.

Sec. 1785.01. As used in this chapter:

(A) "Professional service" means any type of professional service that may be performed only pursuant to a license, certificate, or other legal authorization issued pursuant to Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 4734., or 4741., sections 4755.04 to 4755.13, or 4755.40 to 4755.56 of the Revised Code to certified public accountants, licensed public accountants, architects, attorneys, dentists, nurses, optometrists, pharmacists, physician assistants, doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery, practitioners of the limited branches of medicine specified in section 4731.15 of the Revised Code, mechanotherapists, psychologists, professional engineers, chiropractors, chiropractors practicing acupuncture through the state chiropractic board, veterinarians, occupational therapists, physical therapists, and occupational therapists.

(B) "Professional association" means an association organized under this chapter for the sole purpose of rendering one of the professional services authorized under Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 4734., or 4741., sections 4755.04 to 4755.13, or 4755.40 to 4755.56 of the Revised Code, a combination of the professional services authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors

authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code.

Sec. 1785.02. An individual or group of individuals each of whom is licensed, certificated, or otherwise legally authorized to render within this state the same kind of professional service, a group of individuals each of whom is licensed, certificated, or otherwise legally authorized to render within this state the professional service authorized under Chapter 4703. or 4733. of the Revised Code, or a group of individuals each of whom is licensed, certificated, or otherwise legally authorized to render within this state the professional service of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, or doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code may organize and become a shareholder or shareholders of a professional association. Any group of individuals described in this section who may be rendering one of the professional services as an organization created otherwise than pursuant to this chapter may incorporate under and pursuant to this chapter by amending the agreement establishing the organization in a manner that the agreement as amended constitutes articles of incorporation prepared and filed in the manner prescribed in section 1785.08 of the Revised Code and by otherwise complying with the applicable requirements of this chapter.

Sec. 1785.03. A professional association may render a particular professional service only through officers, employees, and agents who are themselves duly licensed, certificated, or otherwise legally authorized to

render the professional service within this state. As used in this section, "employee" does not include clerks, bookkeepers, technicians, or other individuals who are not usually and ordinarily considered by custom and practice to be rendering a particular professional service for which a license, certificate, or other legal authorization is required and does not include any other person who performs all of that person's employment under the direct supervision and control of an officer, agent, or employee who renders a particular professional service to the public on behalf of the professional association.

No professional association formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, chiropractor practicing acupuncture through the state chiropractic board, psychologist, nurse, pharmacist, physical therapist, occupational therapist, mechanotherapist, or doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a professional association described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual practitioner listed in this division.

Sec. 1785.08. Chapter 1701. of the Revised Code applies to professional

associations, including their organization and the manner of filing articles of incorporation, except that the requirements of division (A) of section 1701.06 of the Revised Code do not apply to professional associations. If any provision of this chapter conflicts with any provision of Chapter 1701. of the Revised Code, the provisions of this chapter shall take precedence. A professional association for the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery or for the combined practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery may provide in its articles of incorporation or bylaws that its directors may have terms of office not exceeding six years.

Sec. 3715.87. (A) As used in this section and in sections 3715.871, 3715.872, and 3715.873 of the Revised Code:

(1) "Health care facility" has the same meaning as in section 1337.11 of the Revised Code.

(2) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

~~(2)~~(3) "Nonprofit clinic" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons as defined in section 2305.234 of the Revised Code. "Nonprofit clinic" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a facility that is operated for profit.

~~(3)~~(4) "Prescription drug" means any drug to which the following applies:

(a) Under the "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.

(B) The state board of pharmacy shall establish a drug repository program to accept and dispense prescription drugs donated or given for the purpose of being dispensed to individuals who are residents of this state and

meet eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code. Only drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed. The packaging must be unopened, except that drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed. Drugs donated by individuals bearing an expiration date that is less than six months from the date the drug is donated shall not be accepted or dispensed. A drug shall not be accepted or dispensed if there is reason to believe that it is adulterated as described in section 3715.63 of the Revised Code. Subject to the ~~limitation~~ limitations specified in this division, unused drugs dispensed for purposes of the medicaid program may be accepted and dispensed under the drug repository program.

Sec. 3715.871. (A) Any person, including a pharmacy, drug manufacturer, or ~~any~~ health care facility ~~as defined in section 1337.11 of the Revised Code~~, or any government entity may donate or give prescription drugs to the drug repository program. The drugs must be donated or given at a pharmacy, hospital, or nonprofit clinic that elects to participate in the drug repository program and meets criteria for participation in the program established in rules adopted by the state board of pharmacy under section 3715.873 of the Revised Code. Participation in the program by pharmacies, hospitals, and nonprofit clinics is voluntary. Nothing in this or any other section of the Revised Code requires a pharmacy, hospital, or nonprofit clinic to participate in the program.

(B) A pharmacy, hospital, or nonprofit clinic eligible to participate in the program shall dispense drugs donated or given under this section to individuals who are residents of this state and meet the eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code or to other government entities and nonprofit private entities to be dispensed to individuals who meet the eligibility standards. A drug may be dispensed only pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs, as defined in section 4729.01 of the Revised Code. A pharmacy, hospital, or nonprofit clinic that accepts donated or given drugs shall comply with all applicable federal laws and laws of this state dealing with storage and distribution of dangerous drugs and shall inspect all drugs prior to dispensing them to determine that they are not adulterated. The pharmacy, hospital, or nonprofit clinic may charge individuals receiving donated or given drugs a handling fee established in accordance with rules adopted by the board under section 3715.873 of the Revised Code. Drugs donated or given to the repository may not be resold.

Sec. 3715.872. (A) As used in this section, "health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(1) Individuals authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(2) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

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

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

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

(6) Pharmacists licensed under Chapter 4729. of the Revised Code.

(B) ~~The state board of pharmacy; the director of health; any~~ For matters related to donating, giving, accepting, or dispensing drugs under the drug repository program, all of the following apply:

~~(1) Any person, including a pharmacy, drug manufacturer, or health care facility, or any government entity that donates or gives drugs to the drug repository program; any pharmacy, hospital, nonprofit clinic, or health care professional that accepts or dispenses drugs under the program; and any pharmacy, hospital, or nonprofit clinic that employs a health care professional who accepts or dispenses drugs under the program shall not, in the absence of bad faith, be subject to any of the following for matters related to donating, accepting, or dispensing drugs under the program: criminal prosecution; liability in tort or other civil action for injury, death, or loss to person or property; or professional disciplinary action.~~

A (2) A pharmacy, hospital, or nonprofit clinic that accepts or dispenses drugs under the program shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the pharmacy, hospital, or nonprofit clinic constitutes willful and wanton misconduct.

(3) A health care professional who accepts or dispenses drugs under the program on behalf of a pharmacy, hospital, or nonprofit clinic, and the pharmacy, hospital, or nonprofit clinic that employs or otherwise uses the services of the health care professional, shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the health care professional, pharmacy, hospital, or nonprofit clinic constitutes willful and wanton misconduct.

(4) The state board of pharmacy and the director of health shall not be

subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the board or director constitutes willful and wanton misconduct.

(C) In addition to the immunity granted under division (B)(1) of this section, any person, including a pharmacy, drug manufacturer, or health care facility, and any government entity that donates or gives drugs to the program shall not be subject to criminal prosecution for the donation, giving, acceptance, or dispensing of drugs under the program, unless an action or omission of the person or government entity does not comply with the provisions of this chapter or the rules adopted under it.

(D) In the case of a drug manufacturer shall not, in the absence of bad faith, be subject to criminal prosecution or liability in tort or other civil action for injury, death, or loss to person or property for matters related to the donation, acceptance, or dispensing of a, the immunities granted under divisions (B)(1) and (C) of this section apply with respect to any drug manufactured by the drug manufacturer that is donated or given by any person or government entity under the program, including but not limited to liability for failure to transfer or communicate product or consumer information or the expiration date of the ~~donated~~ drug donated or given.

Sec. 3715.873. In consultation with the director of health, the state board of pharmacy shall adopt rules governing the drug repository program that establish all of the following:

(A) Eligibility criteria for pharmacies, hospitals, and nonprofit clinics to receive and dispense ~~donated~~ drugs donated or given under the program;

(B) Standards and procedures for accepting, safely storing, and dispensing ~~donated~~ drugs donated or given;

(C) Standards and procedures for inspecting ~~donated~~ drugs donated or given to determine that the original unit dose packaging is sealed and tamper-evident and that the drugs are unadulterated, safe, and suitable for dispensing;

(D) Eligibility standards based on economic need for individuals to receive drugs;

(E) A means, such as an identification card, by which an individual who is eligible to receive ~~donated~~ drugs under the program may demonstrate eligibility to the pharmacy, hospital, or nonprofit clinic dispensing the drugs;

(F) A form that an individual receiving a drug ~~from~~ under the ~~repository~~ program must sign before receiving the drug to confirm that the individual understands the immunity provisions of the program;

(G) A formula to determine the amount of a handling fee that

pharmacies, hospitals, and nonprofit clinics may charge to drug recipients to cover restocking and dispensing costs;

(H) In addition, for drugs donated or given to the repository program by individuals:

(1) A list of drugs, arranged either by category or by individual drug, that the repository program will accept from individuals;

(2) A list of drugs, arranged either by category or by individual drug, that the repository program will not accept from individuals. The list must include a statement as to why the drug is ineligible for donation to be donated or given.

(3) A form each donor must sign stating that the donor is the owner of the drugs and intends to voluntarily donate them to the repository program.

(I) In addition, for drugs donated to the repository program by health care facilities:

(1) A list of drugs, arranged either by category or by individual drug, that the repository program will accept from health care facilities;

(2) A list of drugs, arranged either by category or by individual drug, that the repository program will not accept from health care facilities. The list must include a statement as to why the drug is ineligible for donation to be donated or given.

(J) Any other standards and procedures the board considers appropriate.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4723.16. (A) An individual whom the board of nursing licenses, certificates, or otherwise legally authorizes to engage in the practice of nursing as a registered nurse or as a licensed practical nurse may render the professional services of a registered or licensed practical nurse within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a registered or licensed practical nurse through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the board of nursing adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional

services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under this chapter;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are licensed to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a nurse that prohibits a registered or licensed practical nurse from engaging in the practice of nursing as a registered nurse or as a licensed practical nurse in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of nursing as a registered nurse or as a licensed practical nurse.

Sec. 4725.33. (A) An individual whom the state board of optometry licenses to engage in the practice of optometry may render the professional services of an optometrist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the

Revised Code. This division does not preclude an optometrist from rendering professional services as an optometrist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of optometry adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to an optometrist that prohibits an optometrist from engaging in the practice of optometry in combination with a person who is licensed, certificated, or otherwise legally authorized to practice chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of optometry.

Sec. 4729.161. (A) An individual registered with the state board of pharmacy to engage in the practice of pharmacy may render the professional

services of a pharmacist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a pharmacist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of pharmacy adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a pharmacist that prohibits a pharmacist from engaging in the practice of pharmacy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology,

nursing, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of pharmacy.

Sec. 4731.226. (A)(1) An individual whom the state medical board licenses, certificates, or otherwise legally authorizes to engage in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery may render the professional services of a doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. Division (A)(1) of this section does not preclude an individual of that nature from rendering professional services as a doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state medical board adopted pursuant to this chapter.

(2) An individual whom the state medical board authorizes to engage in the practice of mechanotherapy may render the professional services of a mechanotherapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. Division (A)(2) of this section does not preclude an individual of that nature from rendering professional services as a mechanotherapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state medical board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under this chapter.

(C) Division (B) of this section shall apply notwithstanding a provision of a code of ethics described in division (B)(18) of section 4731.22 of the Revised Code that prohibits either of the following:

(1) A doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery from engaging in the doctor's authorized practice in combination with a person who is licensed, certificated, or otherwise legally authorized to engage in the practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, or mechanotherapy, but who is not also licensed, certificated, or otherwise legally authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(2) A mechanotherapist from engaging in the practice of mechanotherapy in combination with a person who is licensed, certificated, or otherwise legally authorized to engage in the practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of mechanotherapy.

Sec. 4731.23. (A)(1)(a) The state medical board shall designate ~~an~~ attorney one or more attorneys at law who ~~has~~ have been admitted to the

practice of law, and who ~~is~~ are classified as either ~~an~~ administrative law attorney ~~examiner~~ examiners or as ~~an~~ administrative law attorney examiner ~~administrator~~ administrators under the state job classification plan adopted under section 124.14 of the Revised Code, as a hearing ~~examiner~~ examiners, subject to Chapter 119. of the Revised Code, to conduct any hearing which the medical board is empowered to hold or undertake pursuant to Chapter 119. of the Revised Code. ~~Such~~

(b) Notwithstanding the requirement of division (A)(1)(a) of this section that the board designate as a hearing examiner an attorney who is classified as either an administrative law attorney examiner or an administrative law attorney examiner administrator, the board may, subject to controlling board approval, enter into a personal service contract with an attorney admitted to the practice of law in this state to serve on a temporary basis as a hearing examiner.

(2) The hearing examiner shall hear and consider the oral and documented evidence introduced by the parties and issue in writing proposed findings of fact and conclusions of law to the board for their consideration within thirty days following the close of the hearing.

(B) The board shall be given copies of the transcript of the record hearing and all exhibits and documents presented by the parties at the hearing.

(C) The board shall, upon the favorable vote of three members, allow the parties or their counsel the opportunity to present oral arguments on the proposed findings of fact and conclusions of law of the hearing examiner prior to the board's final action.

(D) The board shall render a decision and take action within sixty days following the receipt of the hearing examiner's proposed findings of fact and conclusions of law or within any longer period mutually agreed upon by the board and the certificate holder.

(E) The final decision of the board in any hearing which the board is empowered to undertake shall be in writing and contain findings of fact and conclusions of law. Copies of the decision shall be delivered to the parties personally or by certified mail. The decision shall be final upon delivery or mailing, except that the certificate holder may appeal in the manner provided by Chapter 119. of the Revised Code.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment

of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, the medical assistance program established under Chapter 5111. of the Revised Code, and the disability medical assistance program established under Chapter 5115. of the Revised Code.

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized

to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists who are licensed, certificated, or otherwise legally authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4732.28. (A) An individual whom the state board of psychology licenses, certificates, or otherwise legally authorizes to engage in the practice of psychology may render the professional services of a psychologist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a psychologist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of psychology adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under this chapter;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a psychologist that prohibits a psychologist from engaging in the practice of psychology in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of psychology.

Sec. 4734.10. In addition to rules that are required by this chapter to be adopted, the state chiropractic board may adopt any other rules necessary to govern the practice of chiropractic and acupuncture under this chapter and to administer and enforce this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4734.141. Except for individuals described in section 4762.02 of the Revised Code, no person who holds a license to practice chiropractic issued by the state chiropractic board shall engage in the practice of acupuncture unless the person holds a valid certificate to practice acupuncture issued by the board under section 4734.283 of the Revised Code.

Sec. 4734.142. No person who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code shall do any of the following:

(A) Perform an acupuncture service that is beyond the scope of the person's education, training, and experience;

(B) Advertise or otherwise represent to the public that the person is engaged in the practice of oriental medicine;

(C) Permit an employee or assistant, other than an individual described in section 4762.02 of the Revised Code, to do either of the following:

(1) Insert, stimulate, or remove acupuncture needles;

(2) Apply moxibustion.

Sec. 4734.15. (A) The license provided for in this chapter shall entitle the holder thereof to practice chiropractic in this state. All of the following apply to the practice of chiropractic in this state:

(1) A chiropractor is authorized to examine, diagnose, and assume responsibility for the care of patients, any or all of which is included in the practice of chiropractic.

(2) The practice of chiropractic does not permit ~~the~~ a chiropractor to treat infectious, contagious, or venereal disease, to perform surgery ~~or acupuncture~~, or to prescribe or administer drugs for treatment.

(3) Except as provided in division (B) of this section, the practice of chiropractic does not permit a chiropractor to perform acupuncture.

(4) A chiropractor may use roentgen rays only for diagnostic purposes.

~~(4)~~(5) The practice of chiropractic does not include the performance of abortions.

(B) A chiropractor who holds a valid certificate to practice acupuncture issued under section 4734.283 of the Revised Code is authorized to perform acupuncture.

(C) An individual holding a valid, current license to practice chiropractic is entitled to use the title "doctor," "doctor of chiropractic," "chiropractic physician," or "chiropractic" and is a "physician" for the purposes of Chapter 4123. of the Revised Code.

Sec. 4734.16. The state chiropractic board may establish a code of ethics that applies to chiropractors and their practice of chiropractic ~~in this state and acupuncture under this chapter~~. The board may establish the code of ethics by creating its own code of ethics or by adopting a code of ethics created by a state or federal organization that represents the interests of chiropractors. If a code of ethics is established, the board shall maintain current copies of the code of ethics for distribution on request.

Sec. 4734.17. (A) An individual whom the state chiropractic board licenses to engage in the practice of chiropractic or certifies to practice acupuncture may render the professional services of a chiropractor or chiropractor certified to practice acupuncture within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude a chiropractor from rendering professional services as a chiropractor or chiropractor certified to practice acupuncture through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with

this chapter, another chapter of the Revised Code, or rules of the state chiropractic board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry, under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under this chapter;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of any code of ethics established or adopted under section 4734.16 of the Revised Code that prohibits an individual from engaging in the practice of chiropractic or acupuncture in combination with an individual who is licensed, certificated, or otherwise authorized for the practice of optometry, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed under this chapter to engage in the practice of chiropractic.

Sec. 4734.19. A chiropractor shall retain at the chiropractor's primary practice location a current copy of the statutes and rules governing the practice of chiropractic ~~in this state~~ and acupuncture under this chapter.

Sec. 4734.211. (A) In consultation with the state medical board, the

state chiropractic board shall approve courses of study in acupuncture that prepare a chiropractor licensed under this chapter to receive a certificate to practice acupuncture issued under section 4732.283 of the Revised Code.

(B) To be approved, a course of study must require the successful completion of at least three hundred hours of instruction. Of the three hundred hours of instruction, at least two hundred hours must consist of direct clinical instruction that covers all of the following:

- (1) Application of acupuncture techniques;
- (2) An introduction to traditional Chinese acupuncture;
- (3) Acupuncture points;
- (4) Applications of acupuncture in modern western medicine;
- (5) Guidelines on safety in acupuncture;
- (6) Treatment techniques.

(C) In determining whether to approve a course of study, the state chiropractic board shall take into consideration the qualifications of the entity that administers the course of study. The board may approve a course of study that is administered by any of the following:

- (1) A school or college of chiropractic that has been approved by a national entity acceptable to the board;
- (2) An institution with an acupuncture program that is accredited by the accreditation commission for acupuncture and oriental medicine;
- (3) A school or college of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;
- (4) A hospital;
- (5) An institution that holds a certificate of authorization from the board of regents;
- (6) An institution that holds program authorization from the state board of career colleges and schools under section 3332.05 of the Revised Code.

Sec. 4734.28. As used in sections 4734.28 to 4734.286 of the Revised Code:

(A) "Acupuncture" means a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion or electrical stimulation, to specific areas of the human body.

(B) "Moxibustion" means the use of an herbal heat source on one or more acupuncture points.

Sec. 4734.281. Except in cases where a chiropractor holds a certificate issued under section 4762.04 of the Revised Code or is an individual described in division (B) of section 4762.02 of the Revised Code, a chiropractor licensed under this chapter shall not engage in the practice of

acupuncture unless the chiropractor holds a valid certificate to practice acupuncture issued by the state chiropractic board under this chapter.

Sec. 4734.282. (A) A chiropractor licensed under this chapter seeking a certificate to practice acupuncture shall file with the state chiropractic board a written application on a form prescribed and supplied by the board. The application shall include all of the following:

(1) Evidence satisfactory to the board that the applicant's license is current and valid and that the applicant is in good standing with the board;

(2) Evidence satisfactory to the board that the applicant has completed a course of study in acupuncture approved by the board in accordance with section 4734.211 of the Revised Code.

(3) Evidence satisfactory to the board that the applicant has passed the acupuncture examination administered by the national board of chiropractic examiners or a person that administers the examinations on the national board's behalf.

(B) The board shall review all applications received under this section. The board shall determine whether an applicant meets the requirements to receive a certificate to practice acupuncture not later than sixty days after receiving a complete application. The affirmative vote of not fewer than three members of the board is required to determine that an applicant meets the requirements for a certificate.

(C) At the time of making application for a certificate to practice acupuncture, the applicant shall pay the board a fee in an amount determined by the board pursuant to rules adopted under section 4734.10 of the Revised Code, no part of which shall be returned.

Sec. 4734.283. If the state chiropractic board determines under section 4734.282 of the Revised Code that an applicant meets the requirements for a certificate to practice acupuncture, the executive director of the board shall issue to the applicant a certificate to practice acupuncture. The certificate shall expire annually. It may be renewed in accordance with section 4734.284 of the Revised Code.

Sec. 4734.284. A chiropractor seeking to renew a certificate to practice acupuncture shall follow the standard renewal procedures of Chapter 4745. of the Revised Code and do all of the following:

(A) Furnish the state chiropractic board with satisfactory evidence that the chiropractor completed, during the twenty-four months immediately preceding renewal, at least twelve hours of acupuncture continuing education provided by an entity that administers a course of study approved under section 4734.211 of the Revised Code;

(B) Certify to the board that the chiropractor remains in good standing

with the board and has not engaged in any conduct for which the board may take action under division (C) of section 4734.31 of the Revised Code;

(C) Pay a renewal fee in an amount determined by the board pursuant to rules adopted under section 4734.10 of the Revised Code.

Sec. 4734.285. A chiropractor who holds a certificate to practice acupuncture issued under this chapter may represent or advertise the chiropractor to be a "chiropractor certified by the state chiropractic board to practice acupuncture." Unless the chiropractor holds a license issued under section 4762.04 of the Revised Code, the chiropractor shall not represent or advertise the chiropractor as holding any of the titles listed in section 4762.08 of the Revised Code.

This section does not prohibit a chiropractor from using any of the titles listed in division (C) of section 4734.15 of the Revised Code.

Sec. 4734.286. (A) A chiropractor who holds a certificate to practice acupuncture issued under this chapter who intends not to practice acupuncture in this state for an extended period of time may send to the state chiropractic board written notice to that effect on or before the certificate renewal date. If the chiropractor's certificate is in good standing and the chiropractor is not under disciplinary review pursuant to section 4734.31 of the Revised Code, the board shall classify the certificate as inactive and the chiropractor may not engage in the practice of acupuncture in this state or make any representation to the public indicating that the chiropractor is actively certified to practice acupuncture under this chapter. A chiropractor whose certificate to practice acupuncture is classified as inactive is not required to pay the certificate renewal fee for the certificate.

(B) The holder of an inactive certificate to practice acupuncture may apply to the board to have the certificate restored. The board shall consider the length of inactivity and, in accordance with the conditions for issuance of a license to practice chiropractic established under section 4734.20 of the Revised Code and the requirements for issuance of a certificate to practice acupuncture established under section 4734.282 of the Revised Code, the moral character and the activities of the applicant during the inactive period. The board may impose terms and conditions on restoration of the certificate by doing any of the following:

(1) Requiring the applicant to obtain training, which may include requiring the applicant to pass an examination on completion of the training;

(2) Requiring the applicant to pass an oral or written examination, or both, to determine fitness to resume practice;

(3) Restricting or limiting the extent, scope, or type of practice of the applicant.

Sec. 4734.31. (A) The state chiropractic board may take any of the actions specified in division (B) of this section against an individual who has applied for or holds a license to practice chiropractic in this state if any of the reasons specified in division (C) of this section for taking action against an individual are applicable. Except as provided in division (D) of this section, actions taken against an individual shall be taken in accordance with Chapter 119. of the Revised Code. The board may specify that any action it takes is a permanent action. The board's authority to take action against an individual is not removed or limited by the individual's failure to renew a license.

(B) In its imposition of sanctions against an individual, the board may do any of the following:

(1) Refuse to issue, renew, restore, or reinstate a license to practice chiropractic or a certificate to practice acupuncture;

(2) Reprimand or censure a license holder;

(3) Place limits, restrictions, or probationary conditions on a license holder's practice;

(4) Impose a civil fine of not more than five thousand dollars according to a schedule of fines specified in rules that the board shall adopt in accordance with ~~chapter~~ Chapter 119. of the Revised Code.

(5) Suspend a license to practice chiropractic or a certificate to practice acupuncture for a limited or indefinite period;

(6) Revoke a license to practice chiropractic or a certificate to practice acupuncture.

(C) The board may take the actions specified in division (B) of this section for any of the following reasons:

(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony in any jurisdiction, in which case a certified copy of the court record shall be conclusive evidence of the conviction;

(2) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter;

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

(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding

of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice, in which case a certified copy of the court record shall be conclusive evidence of the matter;

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

(7) A violation or attempted violation of this chapter or the rules adopted under it governing the practice of chiropractic and the practice of acupuncture by a chiropractor licensed under this chapter;

(8) Failure to cooperate in an investigation conducted by the board, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if the board or a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(9) Engaging in an ongoing professional relationship with a person or entity that violates any provision of this chapter or the rules adopted under it, unless the chiropractor makes a good faith effort to have the person or entity comply with the provisions;

(10) Retaliating against a chiropractor for the chiropractor's reporting to the board or any other agency with jurisdiction any violation of the law or for cooperating with the board of another agency in the investigation of any violation of the law;

(11) Aiding, abetting, assisting, counseling, or conspiring with any person in that person's violation of any provision of this chapter or the rules adopted under it, including the practice of chiropractic without a license, the practice of acupuncture without a certificate, or aiding, abetting, assisting, counseling, or conspiring with any person in that person's unlicensed practice of any other health care profession that has licensing requirements;

(12) With respect to a report or record that is made, filed, or signed in connection with the practice of chiropractic or acupuncture, knowingly making or filing a report or record that is false, intentionally or negligently failing to file a report or record required by federal, state, or local law or willfully impeding or obstructing the required filing, or inducing another person to engage in any such acts;

(13) Making a false, fraudulent, or deceitful statement to the board or any agent of the board during any investigation or other official proceeding conducted by the board under this chapter or in any filing that must be

submitted to the board;

(14) Attempting to secure a license to practice chiropractic or certificate to practice acupuncture or to corrupt the outcome of an official board proceeding through bribery or any other improper means;

(15) Willfully obstructing or hindering the board or any agent of the board in the discharge of the board's duties;

(16) Habitually using drugs or intoxicants to the extent that the person is rendered unfit for the practice of chiropractic or acupuncture;

(17) Inability to practice chiropractic or acupuncture according to acceptable and prevailing standards of care by reason of chemical dependency, mental illness, or physical illness, including conditions in which physical deterioration has adversely affected the person's cognitive, motor, or perceptive skills and conditions in which a chiropractor's continued practice may pose a danger to the chiropractor or the public;

(18) Any act constituting gross immorality relative to the person's practice of chiropractic or acupuncture, including acts involving sexual abuse, sexual misconduct, or sexual exploitation;

(19) Exploiting a patient for personal or financial gain;

(20) Failing to maintain proper, accurate, and legible records in the English language documenting each patient's care, including, as appropriate, records of the following: dates of treatment, services rendered, examinations, tests, x-ray reports, referrals, and the diagnosis or clinical impression and clinical treatment plan provided to the patient;

(21) Except as otherwise required by the board or by law, disclosing patient information gained during the chiropractor's professional relationship with a patient without obtaining the patient's authorization for the disclosure;

(22) Commission of willful or gross malpractice, or willful or gross neglect, in the practice of chiropractic or acupuncture;

(23) Failing to perform or negligently performing an act recognized by the board as a general duty or the exercise of due care in the practice of chiropractic or acupuncture, regardless of whether injury results to a patient from the failure to perform or negligent performance of the act;

(24) Engaging in any conduct or practice that impairs or may impair the ability to practice chiropractic or acupuncture safely and skillfully;

(25) Practicing, or claiming to be capable of practicing, beyond the scope of the practice of chiropractic or acupuncture as established under this chapter and the rules adopted under this chapter;

(26) Accepting and performing professional responsibilities as a chiropractor or chiropractor with a certificate to practice acupuncture when

not qualified to perform those responsibilities, if the person knew or had reason to know that the person was not qualified to perform them;

(27) Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual when the delegating chiropractor knows or had reason to know that the employee or other individual is not qualified by training, experience, or professional licensure to perform the responsibilities;

(28) Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual in a negligent manner or failing to provide proper supervision of the employee or other individual to whom the responsibilities are delegated;

(29) Failing to refer a patient to another health care practitioner for consultation or treatment when the chiropractor knows or has reason to know that the referral is in the best interest of the patient;

(30) Obtaining or attempting to obtain any fee or other advantage by fraud or misrepresentation;

(31) Making misleading, deceptive, false, or fraudulent representations in the practice of chiropractic or acupuncture;

(32) Being guilty of false, fraudulent, deceptive, or misleading advertising or other solicitations for patients or knowingly having professional connection with any person that advertises or solicits for patients in such a manner;

(33) Violation of a provision of any code of ethics established or adopted by the board under section 4734.16 of the Revised Code;

(34) Failing to meet the examination requirements for receipt of a license specified under section 4734.20 of the Revised Code;

(35) Actions taken for any reason, other than nonpayment of fees, by the chiropractic or acupuncture licensing authority of another state or country;

(36) Failing to maintain clean and sanitary conditions at the clinic, office, or other place in which chiropractic services or acupuncture services are provided;

(37) Except as provided in division (G) of this section:

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

(b) Advertising that the chiropractor will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health

insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay.

(38) Failure to supervise an acupuncturist in accordance with the provisions of section 4762.11 of the Revised Code that are applicable to the supervising chiropractor of an acupuncturist.

(D) The adjudication requirements of Chapter 119. of the Revised Code apply to the board when taking actions against an individual under this section, except as follows:

(1) An applicant is not entitled to an adjudication for failing to meet the conditions specified under section 4734.20 of the Revised Code for receipt of a license that involve the board's examination on jurisprudence or the examinations of the national board of chiropractic examiners.

(2) A person is not entitled to an adjudication if the person fails to make a timely request for a hearing, in accordance with Chapter 119. of the Revised Code.

(3) In lieu of an adjudication, the board may accept the surrender of a license to practice chiropractic or certificate to practice acupuncture from a chiropractor.

(4) In lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(E) This section does not require the board to hire, contract with, or retain the services of an expert witness when the board takes action against a chiropractor concerning compliance with acceptable and prevailing standards of care in the practice of chiropractic or acupuncture. As part of an action taken concerning compliance with acceptable and prevailing standards of care, the board may rely on the knowledge of its members for purposes of making a determination of compliance, notwithstanding any expert testimony presented by the chiropractor that contradicts the knowledge and opinions of the members of the board.

(F) The sealing of conviction records by a court shall have no effect on a prior board order entered under this section or on the board's jurisdiction to take action under this section if, based on a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal,

destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(G) Actions shall not be taken pursuant to division (C)(37) of this section against any chiropractor who waives deductibles and copayments as follows:

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

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

Sec. 4734.311. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state chiropractic board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license to practice chiropractic or certificate to practice acupuncture issued pursuant to this chapter.

Sec. 4734.34. An individual subject to an action taken under section 4734.31 of the Revised Code, other than permanent revocation of a license to practice chiropractic or certificate to practice acupuncture, may apply to the state chiropractic board to have the individual's license or certificate restored to good standing. The board shall consider the moral character and the activities of the applicant since the board's action was taken, in accordance with the standards for issuance of a license, as established under section 4734.20 of the Revised Code, or the standards for issuance of a certificate to practice acupuncture, as established under section 4734.282 of the Revised Code. The board may impose terms and conditions on restoration of the license or certificate by doing any of the following:

(A) Requiring the applicant to obtain training, which may include requiring the applicant to pass an examination upon completion of the training;

(B) Requiring the applicant to pass an oral or written examination, or both, to determine fitness to resume practice;

(C) Restricting or limiting the extent, scope, or type of practice of the applicant.

Sec. 4734.36. A chiropractor who in this state pleads guilty to or is convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition,

aggravated arson, aggravated robbery, or aggravated burglary, or who in another jurisdiction pleads guilty to or is convicted of any substantially equivalent criminal offense, is automatically suspended from practice in this state and the license issued under this chapter to practice chiropractic is automatically suspended as of the date of the guilty plea or conviction. If applicable, the chiropractor's certificate issued under this chapter to practice acupuncture is automatically suspended at the same time. Continued practice after suspension under this section shall be considered practicing chiropractic without a license and, if applicable, acupuncture without a certificate. On receiving notice or otherwise becoming aware of the conviction, the state chiropractic board shall notify the individual of the suspension under this section by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license and, if applicable, certificate to practice acupuncture is suspended under this section fails to make a timely request for an adjudication, the board shall enter a final order revoking the individual's license and, if applicable, certificate to practice acupuncture.

Sec. 4734.37. If the state chiropractic board determines that there is clear and convincing evidence that a person who has been granted a license to practice chiropractic and, if applicable, certificate to practice acupuncture under this chapter has committed an act that subjects the person's license and, if applicable, certificate to board action under section 4734.31 of the Revised Code and that the person's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the license and, if applicable, certificate without a prior hearing. A telephone conference call may be utilized for reviewing the matter and taking the vote.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order is not subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the person subject to the suspension requests an adjudication by the board, the date set for the adjudication shall be within twenty days, but not earlier than seven days, after the request, unless otherwise agreed to by both the board and the person subject to the suspension.

Any summary suspension imposed under this section shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to section 4734.31 and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its adjudication. A failure to issue the order within sixty days shall result in dissolution of the summary suspension order

but shall not invalidate any subsequent, final adjudicative order.

Sec. 4734.38. If any person who has been granted a license to practice chiropractic and, if applicable, certificate to practice acupuncture under this chapter is adjudged by a probate court to be mentally ill or mentally incompetent, the person's license and, if applicable, certificate shall be automatically suspended until the person has filed with the state chiropractic board a certified copy of an adjudication by a probate court of being restored to competency or has submitted to the board proof, satisfactory to the board, of having been discharged as being restored to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of the court shall forthwith notify the board of an adjudication of mental illness or mental incompetence.

Sec. 4734.39. (A) For purposes of the state chiropractic board's enforcement of division (C)(16) or (17) of section 4734.31 of the Revised Code, an individual who applies for or receives a license to practice chiropractic or certificate to practice acupuncture under this chapter accepts the privilege of practicing chiropractic and, if applicable, acupuncture in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board in its enforcement of those divisions, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(B) If the board has reason to believe that a chiropractor or applicant suffers an impairment described in division (C)(16) or (17) of section 4734.31 of the Revised Code, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this section shall be undertaken by a provider who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. A default and final order may be entered without the taking of testimony or presentation of evidence.

If the board determines that an individual's ability to practice is impaired, the board shall suspend the individual's license to practice chiropractic and, if applicable, certificate to practice acupuncture or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, restored, or renewed certification to

practice, to submit to care, counseling, or treatment.

(C) Before being eligible to apply for reinstatement of a license or certificate suspended under division (C)(16) of section 4734.31 of the Revised Code or the chemical dependency provisions of division (C)(17) of section 4731.34 of the Revised Code, the impaired individual shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care in the practice of chiropractic and, if applicable, acupuncture under this chapter. If rules have been adopted under section 4734.40 of the Revised Code, the demonstration shall include, but shall not be limited to, the following:

(1) Certification from a treatment provider approved under section 4734.40 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;

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

The board may reinstate a license and, if applicable, certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

Sec. 4734.47. (A) The executive director of the state chiropractic board shall function as the chief enforcement officer of the board and shall enforce the laws relating to the practice of chiropractic and acupuncture under this chapter. If the executive director has knowledge or notice of a violation of those laws, the executive director shall investigate the matter or cause the matter to be investigated. On probable cause appearing, the executive director shall prosecute the offender or cause the offender to be prosecuted. If the matter involves a violation by an individual licensed under this chapter, the executive director shall bring the matter before the board. If the matter involves a violation for which a penalty may be imposed under

section 4734.99 of the Revised Code, the executive director or a person authorized by the board to represent the executive director may file a complaint with the prosecuting attorney of the proper county. Except as provided in division (B) of this section, the prosecuting attorney shall take charge of and conduct the prosecution.

(B) For purposes of enforcing this chapter, the board may petition a court of record to appoint an attorney to assist the prosecuting attorney in the prosecution of offenders or to take charge of and conduct the prosecutions as a special prosecutor. The court shall grant the petition if it is in the public interest. A special prosecutor appointed by the court shall be compensated by the board in an amount approved by the board.

If the court believes that public knowledge of the appointment of a special prosecutor could allow one or more persons to interfere with the prosecution or any investigation related to the prosecution, the court may seal all documents pertaining to the appointment. Sealed documents shall remain sealed until there is court action on the prosecution or until the court orders the documents to be opened.

Sec. 4734.49. (A) The attorney general, the prosecuting attorney of the county in which a violation of this chapter is committed or is threatened to be committed or in which the offender resides, the state chiropractic board, or any other person having knowledge of a person committing or threatening to commit a violation of this chapter may, in accordance with the provisions of the Revised Code governing injunctions, maintain an action in the name of this state to enjoin the person from committing the violation by applying for an injunction in any court of competent jurisdiction. Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court. If the court grants a final or permanent injunction that is a final appealable order, the court may award to the person or entity that maintained the action an amount not exceeding five thousand dollars to cover reasonable attorney's fees, investigative costs, and other costs related to the investigation or prosecution of the case. Injunction proceedings brought under this section shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

(B)(1) The practice of chiropractic by any person not at that time holding a valid and current license issued under this chapter is hereby declared to be inimical to the public welfare and to constitute a public nuisance.

(2) Except for the practice of acupuncture by persons described in section 4762.02 of the Revised Code and persons who hold certificates issued under section 4762.04 of the Revised Code, the practice of acupuncture by any person not at that time holding a valid and current certificate to practice acupuncture issued under this chapter is hereby declared to be inimical to the public welfare and to constitute a public nuisance.

Sec. 4734.50. This chapter does not require the state chiropractic board to act on minor violations of this chapter or the rules adopted under it, if the violations are committed by individuals licensed to practice chiropractic or certified to practice acupuncture under this chapter and the board determines that the public interest is adequately served by issuing a notice or warning to the alleged offender.

Sec. 4734.55. The state chiropractic board shall provide a duplicate license to practice chiropractic or certificate to practice acupuncture to a license or certificate holder on payment of a fee of forty-five dollars.

Upon written request and the payment of a fee of ninety-five dollars, the board shall provide to any person a list of persons holding licenses to practice chiropractic or certificates to practice acupuncture, as indicated in its register maintained pursuant to section 4734.04 of the Revised Code.

Upon written request from the ~~licensee~~ holder of a license or certificate issued under this chapter for the board's certification of information pertaining to the license or certificate, and the payment of a fee of twenty dollars, the board shall issue its certification of ~~licensee~~ the information to the person identified by the ~~licensee or certificate holder in the request~~.

Sec. 4734.99. (A) Whoever violates section 4734.14 or 4734.141 of the Revised Code is guilty of a felony of the fifth degree on a first offense, unless the offender previously has been convicted of or has pleaded guilty to a violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.40, 2913.47, 2913.48, 2913.51, 2921.13, 4715.09, 4723.03, 4725.02, 4725.41, 4729.27, 4729.28, 4729.36, 4729.51, 4729.61, 4730.02, 4731.41, 4731.43, 4731.46, 4731.47, 4731.60, 4732.21, 4741.18, 4741.19, 4755.48, 4757.02, 4759.02, 4761.10, or 4773.02 of the Revised Code or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to a violation of any of those sections, in which case the offender is guilty of a felony of the fourth degree. For each subsequent offense, the offender is guilty of a felony of the fourth degree.

(B) Whoever violates section 4734.161 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (A), (B), (C), or (D) of section 4734.32 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

Sec. 4755.471. (A) An individual whom the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board licenses, certificates, or otherwise legally authorizes to engage in the practice of physical therapy may render the professional services of a physical therapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a physical therapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with sections 4755.40 to 4755.53 of the Revised Code, another chapter of the Revised Code, or rules of the Ohio occupational therapy, physical therapy, and athletic trainers board adopted pursuant to sections 4755.40 to 4755.53 of the Revised Code.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a physical therapist that prohibits a physical therapist from engaging in the practice of physical therapy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of physical therapy.

Sec. 4762.01. As used in this chapter:

(A) "Acupuncture" means a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion or electrical stimulation, to specific areas of the human body.

(B) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to engage in the practice of chiropractic.

(C) "Moxibustion" means the use of an herbal heat source on one or more acupuncture points.

~~(C)~~(D) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.

Sec. 4762.02. (A) Except as provided in division (B) of this section, no person shall engage in the practice of acupuncture unless the person holds a valid certificate of registration as an acupuncturist issued by the state medical board under this chapter.

(B) Division (A) of this section does not apply to ~~a~~ the following:

(1) A physician ~~or to a~~

(2) A person who performs acupuncture as part of a training program in acupuncture operated by an educational institution that holds an effective certificate of authorization issued by the Ohio board of regents under section 1713.02 of the Revised Code or a school that holds an effective certificate of registration issued by the state board of career colleges and schools under section 3332.05 of the Revised Code;

(3) A chiropractor who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code.

Sec. 4762.09. An acupuncturist who holds a certificate of registration issued under this chapter shall conspicuously display at the acupuncturist's primary place of business both of the following:

(A) ~~A~~ The acupuncturist's certificate of registration issued by the state medical board under this chapter, as evidence that the acupuncturist is authorized to practice acupuncture in this state;

(B) A notice specifying that the practice of acupuncture under the certificate of registration is regulated by the state medical board and the address and telephone number of the board's office.

Sec. 4762.10. All of the following apply to the practice of a person who holds a certificate of registration as an acupuncturist issued under this chapter:

(A) The acupuncturist shall perform acupuncture for a patient only if the patient has received a ~~physician's~~ written referral or prescription for acupuncture from a physician or chiropractor. As specified in the referral or prescription, the acupuncturist shall provide reports to the physician or chiropractor on the patient's condition or progress in treatment and comply with the conditions or restrictions on the acupuncturist's course of treatment.

(B) The acupuncturist shall perform acupuncture under the general supervision of the patient's referring or prescribing physician or chiropractor. General supervision does not require that the acupuncturist and physician or chiropractor practice in the same office.

(C) Prior to treating a patient, the acupuncturist shall advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment.

(D) On initially meeting a patient in person, the acupuncturist shall provide in writing the acupuncturist's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.

(E) While treating a patient, the acupuncturist shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the acupuncturist shall consult promptly with ~~the supervising~~ a physician.

(F) An acupuncturist shall maintain records for each patient treated. In each patient's records, the acupuncturist shall include the written referral or prescription pursuant to which the acupuncturist is treating the patient. The records shall be confidential and shall be retained for not less than three years following termination of treatment.

Sec. 4762.11. All of the following apply to an acupuncturist's supervising physician or chiropractor for a patient:

(A) Before making the referral or prescription for acupuncture, the physician shall perform a medical diagnostic examination of the patient or review the results of a medical diagnostic examination recently performed by another physician, or, in the case of a chiropractor, the chiropractor shall perform a chiropractic diagnostic examination of the patient or review the results of a chiropractic diagnostic examination recently performed by another chiropractor.

(B) The physician or chiropractor shall make the referral or prescription in writing and specify in the referral or prescription all of the following:

(1) The physician's or chiropractor's diagnosis of the ailment or condition that is to be treated by acupuncture;

(2) A time by which or the intervals at which the acupuncturist must provide reports to the physician or chiropractor regarding the patient's condition or progress in treatment;

(3) The conditions or restrictions placed in accordance with division (C) of this section on the acupuncturist's course of treatment.

(C) The physician shall place conditions or restrictions on the acupuncturist's course of treatment in compliance with accepted or prevailing standards of medical care, or, in the case of a chiropractor, the chiropractor shall place conditions or restrictions on the acupuncturist's course of treatment in compliance with accepted or prevailing standards of chiropractic care.

(D) The physician or chiropractor shall be personally available for consultation with the acupuncturist. If the physician or chiropractor is not on the premises at which acupuncture is performed, the physician or chiropractor shall be readily available to the acupuncturist through some means of telecommunication and be in a location that under normal circumstances is not more than sixty minutes travel time away from the location where the acupuncturist is practicing.

Sec. 4762.12. In the case of a patient with a claim under Chapter 4121. or 4123. of the Revised Code, an acupuncturist's supervising physician or chiropractor is eligible to be reimbursed for referring the patient to an acupuncturist or prescribing acupuncture for the patient only if the physician or chiropractor has attained knowledge in the treatment of patients with acupuncture, demonstrated by successful completion of a course of study in acupuncture administered by a college of medicine, osteopathic medicine, ~~or~~ podiatric medicine, or chiropractic acceptable to the bureau of workers' compensation or administered by another entity acceptable to the bureau.

Sec. 4762.18. ~~The~~ (A) Subject to division (E) of this section, the attorney general, the prosecuting attorney of any county in which the

offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person engaged either directly or by complicity in the practice of acupuncture without having first obtained a certificate of registration to do so pursuant to this chapter, may, in accord with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in the unlawful practice of acupuncture by applying for an injunction in any court of competent jurisdiction.

(B) Prior to application for an injunction under division (A) of this section, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful practice of acupuncture by registered mail that the secretary has received information indicating that this person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

(C) Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court.

(D) Injunction proceedings as authorized by this section shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

(E) An injunction proceeding permitted by division (A) of this section may not be maintained against a person described in division (B) of section 4762.02 of the Revised Code or a chiropractor who holds a valid certificate to practice acupuncture issued under section 4734.283 of the Revised Code.

SECTION 2. That existing sections 1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 3715.872, 3715.873, 4723.16, 4725.33, 4729.161, 4731.226, 4731.23, 4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 of the Revised Code are hereby repealed.

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SECTION 3. Section 4725.33 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 553 and Sub. H.B. 698 of the 122nd General Assembly. Section 4734.311 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 506 and Am. Sub. S.B. 180 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting version of the sections in effect prior to the effective date of the sections as presented in this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____