

As Introduced

**127th General Assembly
Regular Session
2007-2008**

S. B. No. 33

Senator Schuring

**Cosponsors: Senators Gardner, Clancy, Padgett, Mumper, Spada, Schaffer,
Fedor**

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A B I L L

To amend sections 1701.03, 1705.03, 1705.04, 1705.53,	1
1785.01, 1785.02, 1785.03, 1785.08, 3715.87,	2
3715.871, 3715.872, 3715.873, 4723.16, 4725.33,	3
4729.161, 4731.226, 4731.23, 4731.65, 4732.28,	4
4734.10, 4734.15, 4734.16, 4734.17, 4734.19,	5
4734.31, 4734.311, 4734.34, 4734.36, 4734.37,	6
4734.38, 4734.39, 4734.47, 4734.49, 4734.50,	7
4734.55, 4734.99, 4755.471, 4762.01, 4762.02,	8
4762.09, 4762.10, 4762.11, 4762.12, and 4762.18	9
and to enact sections 4734.141, 4734.142,	10
4734.211, 4734.28, 4734.281, 4734.282, 4734.283,	11
4734.284, 4734.285, and 4734.286 of the Revised	12
Code regarding the practice of acupuncture by	13
chiropractors, the State Medical Board's use of	14
private attorneys as temporary hearing examiners,	15
and to modify the immunity from liability that	16
applies under the Drug Repository Program.	17

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

Section 1. That sections 1701.03, 1705.03, 1705.04, 1705.53,	18
1785.01, 1785.02, 1785.03, 1785.08, 3515.87, 3715.871, 3715.872,	19

3715.873, 4723.16, 4725.33, 4729.161, 4731.226, 4731.23, 4731.65, 20
4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 21
4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 22
4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 23
4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 be amended and 24
sections 4734.141, 4734.142, 4734.211, 4734.28, 4734.281, 25
4734.282, 4734.283, 4734.284, 4734.285, and 4734.286 of the 26
Revised Code be enacted to read as follows: 27

Sec. 1701.03. (A) A corporation may be formed under this 28
chapter for any purpose or combination of purposes for which 29
individuals lawfully may associate themselves, except that, if the 30
Revised Code contains special provisions pertaining to the 31
formation of any designated type of corporation other than a 32
professional association, as defined in section 1785.01 of the 33
Revised Code, a corporation of that type shall be formed in 34
accordance with the special provisions. 35

(B) On and after July 1, 1994, a corporation may be formed 36
under this chapter for the purpose of carrying on the practice of 37
any profession, including, but not limited to, a corporation for 38
the purpose of providing public accounting or certified public 39
accounting services, a corporation for the erection, owning, and 40
conducting of a sanitarium for receiving and caring for patients, 41
medical and hygienic treatment of patients, and instruction of 42
nurses in the treatment of disease and in hygiene, a corporation 43
for the purpose of providing architectural, landscape 44
architectural, professional engineering, or surveying services or 45
any combination of those types of services, and a corporation for 46
the purpose of providing a combination of the professional 47
services, as defined in section 1785.01 of the Revised Code, of 48
optometrists authorized under Chapter 4725. of the Revised Code, 49
chiropractors authorized under Chapter 4734. of the Revised Code 50
to practice chiropractic or acupuncture, psychologists authorized 51

under Chapter 4732. of the Revised Code, registered or licensed 52
practical nurses authorized under Chapter 4723. of the Revised 53
Code, pharmacists authorized under Chapter 4729. of the Revised 54
Code, physical therapists authorized under sections 4755.40 to 55
~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists authorized 56
under section 4731.151 of the Revised Code, and doctors of 57
medicine and surgery, osteopathic medicine and surgery, or 58
podiatric medicine and surgery authorized under Chapter 4731. of 59
the Revised Code. This chapter does not restrict, limit, or 60
otherwise affect the authority or responsibilities of any agency, 61
board, commission, department, office, or other entity to license, 62
register, and otherwise regulate the professional conduct of 63
individuals or organizations of any kind rendering professional 64
services, as defined in section 1785.01 of the Revised Code, in 65
this state or to regulate the practice of any profession that is 66
within the jurisdiction of the agency, board, commission, 67
department, office, or other entity, notwithstanding that an 68
individual is a director, officer, employee, or other agent of a 69
corporation formed under this chapter and is rendering 70
professional services or engaging in the practice of a profession 71
through a corporation formed under this chapter or that the 72
organization is a corporation formed under this chapter. 73

(C) Nothing in division (A) or (B) of this section precludes 74
the organization of a professional association in accordance with 75
this chapter and Chapter 1785. of the Revised Code or the 76
formation of a limited liability company under Chapter 1705. of 77
the Revised Code with respect to a business, as defined in section 78
1705.01 of the Revised Code. 79

(D) No corporation formed for the purpose of providing a 80
combination of the professional services, as defined in section 81
1785.01 of the Revised Code, of optometrists authorized under 82
Chapter 4725. of the Revised Code, chiropractors authorized under 83

Chapter 4734. of the Revised Code to practice chiropractic or 84
acupuncture, psychologists authorized under Chapter 4732. of the 85
Revised Code, registered or licensed practical nurses authorized 86
under Chapter 4723. of the Revised Code, pharmacists authorized 87
under Chapter 4729. of the Revised Code, physical therapists 88
authorized under sections 4755.40 to ~~4755.53~~ 4755.56 of the 89
Revised Code, mechanotherapists authorized under section 4731.151 90
of the Revised Code, and doctors of medicine and surgery, 91
osteopathic medicine and surgery, or podiatric medicine and 92
surgery authorized under Chapter 4731. of the Revised Code shall 93
control the professional clinical judgment exercised within 94
accepted and prevailing standards of practice of a licensed, 95
certificated, or otherwise legally authorized optometrist, 96
chiropractor, chiropractor practicing acupuncture through the 97
state chiropractic board, psychologist, nurse, pharmacist, 98
physical therapist, mechanotherapist, or doctor of medicine and 99
surgery, osteopathic medicine and surgery, or podiatric medicine 100
and surgery in rendering care, treatment, or professional advice 101
to an individual patient. 102

This division does not prevent a hospital, as defined in 103
section 3727.01 of the Revised Code, insurer, as defined in 104
section 3999.36 of the Revised Code, or intermediary organization, 105
as defined in section 1751.01 of the Revised Code, from entering 106
into a contract with a corporation described in this division that 107
includes a provision requiring utilization review, quality 108
assurance, peer review, or other performance or quality standards. 109
Those activities shall not be construed as controlling the 110
professional clinical judgment of an individual practitioner 111
listed in this division. 112

Sec. 1705.03. (A) A limited liability company may sue and be 113
sued. 114

(B) Unless otherwise provided in its articles of 115
organization, a limited liability company may take property of any 116
description or any interest in property of any description by 117
gift, devise, or bequest and may make donations for the public 118
welfare or for charitable, scientific, or educational purposes. 119

(C) In carrying out the purposes stated in its articles of 120
organization or operating agreement and subject to limitations 121
prescribed by law or in its articles of organization or its 122
operating agreement, a limited liability company may do all of the 123
following: 124

(1) Purchase or otherwise acquire, lease as lessee or lessor, 125
invest in, hold, use, encumber, sell, exchange, transfer, and 126
dispose of property of any description or any interest in property 127
of any description; 128

(2) Make contracts; 129

(3) Form or acquire the control of other domestic or foreign 130
limited liability companies; 131

(4) Be a shareholder, partner, member, associate, or 132
participant in other profit or nonprofit enterprises or ventures; 133

(5) Conduct its affairs in this state and elsewhere; 134

(6) Render in this state and elsewhere a professional 135
service, the kinds of professional services authorized under 136
Chapters 4703. and 4733. of the Revised Code, or a combination of 137
the professional services of optometrists authorized under Chapter 138
4725. of the Revised Code, chiropractors authorized under Chapter 139
4734. of the Revised Code to practice chiropractic or acupuncture, 140
psychologists authorized under Chapter 4732. of the Revised Code, 141
registered or licensed practical nurses authorized under Chapter 142
4723. of the Revised Code, pharmacists authorized under Chapter 143
4729. of the Revised Code, physical therapists authorized under 144
sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, 145

mechanotherapists authorized under section 4731.151 of the Revised 146
Code, and doctors of medicine and surgery, osteopathic medicine 147
and surgery, or podiatric medicine and surgery authorized under 148
Chapter 4731. of the Revised Code; 149

(7) Borrow money; 150

(8) Issue, sell, and pledge its notes, bonds, and other 151
evidences of indebtedness; 152

(9) Secure any of its obligations by mortgage, pledge, or 153
deed of trust of all or any of its property; 154

(10) Guarantee or secure obligations of any person; 155

(11) Do all things permitted by law and exercise all 156
authority within or incidental to the purposes stated in its 157
articles of organization. 158

(D) In addition to the authority conferred by division (C) of 159
this section and irrespective of the purposes stated in its 160
articles of organization or operating agreement but subject to any 161
limitations stated in those articles or its operating agreement, a 162
limited liability company may invest funds not currently needed in 163
its business in any securities if the investment does not cause 164
the company to acquire control of another enterprise whose 165
activities and operations are not incidental to the purposes 166
stated in the articles of organization of the company. 167

(E)(1) No lack of authority or limitation upon the authority 168
of a limited liability company shall be asserted in any action 169
except as follows: 170

(a) By the state in an action by it against the company; 171

(b) By or on behalf of the company in an action against a 172
manager, an officer, or any member as a member; 173

(c) By a member as a member in an action against the company, 174
a manager, an officer, or any member as a member; 175

(d) In an action involving an alleged improper issue of a 176
membership interest in the company. 177

(2) Division (E)(1) of this section applies to any action 178
commenced in this state upon any contract made in this state by a 179
foreign limited liability company. 180

Sec. 1705.04. (A) One or more persons, without regard to 181
residence, domicile, or state of organization, may form a limited 182
liability company. The articles of organization shall be signed 183
and filed with the secretary of state and shall set forth all of 184
the following: 185

(1) The name of the company; 186

(2) Except as provided in division (B) of this section, the 187
period of its duration, which may be perpetual; 188

(3) Any other provisions that are from the operating 189
agreement or that are not inconsistent with applicable law and 190
that the members elect to set out in the articles for the 191
regulation of the affairs of the company. 192

The legal existence of the company begins upon the filing of 193
the articles of organization or on a later date specified in the 194
articles of organization that is not more than ninety days after 195
the filing. 196

(B) If the articles of organization or operating agreement do 197
not set forth the period of the duration of the limited liability 198
company, its duration shall be perpetual. 199

(C) If a limited liability company is formed under this 200
chapter for the purpose of rendering a professional service, the 201
kinds of professional services authorized under Chapters 4703. and 202
4733. of the Revised Code, or a combination of the professional 203
services of optometrists authorized under Chapter 4725. of the 204
Revised Code, chiropractors authorized under Chapter 4734. of the 205

Revised Code to practice chiropractic or acupuncture, 206
psychologists authorized under Chapter 4732. of the Revised Code, 207
registered or licensed practical nurses authorized under Chapter 208
4723. of the Revised Code, pharmacists authorized under Chapter 209
4729. of the Revised Code, physical therapists authorized under 210
sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, 211
mechanotherapists authorized under section 4731.151 of the Revised 212
Code, and doctors of medicine and surgery, osteopathic medicine 213
and surgery, or podiatric medicine and surgery authorized under 214
Chapter 4731. of the Revised Code, the following apply: 215

(1) Each member, employee, or other agent of the company who 216
renders a professional service in this state and, if the 217
management of the company is not reserved to its members, each 218
manager of the company who renders a professional service in this 219
state shall be licensed, certificated, or otherwise legally 220
authorized to render in this state the same kind of professional 221
service; if applicable, the kinds of professional services 222
authorized under Chapters 4703. and 4733. of the Revised Code; or, 223
if applicable, any of the kinds of professional services of 224
optometrists authorized under Chapter 4725. of the Revised Code, 225
chiropractors authorized under Chapter 4734. of the Revised Code 226
to practice chiropractic or acupuncture, psychologists authorized 227
under Chapter 4732. of the Revised Code, registered or licensed 228
practical nurses authorized under Chapter 4723. of the Revised 229
Code, pharmacists authorized under Chapter 4729. of the Revised 230
Code, physical therapists authorized under sections 4755.40 to 231
~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists authorized 232
under section 4731.151 of the Revised Code, or doctors of medicine 233
and surgery, osteopathic medicine and surgery, or podiatric 234
medicine and surgery authorized under Chapter 4731. of the Revised 235
Code. 236

(2) Each member, employee, or other agent of the company who 237

renders a professional service in another state and, if the 238
management of the company is not reserved to its members, each 239
manager of the company who renders a professional service in 240
another state shall be licensed, certificated, or otherwise 241
legally authorized to render that professional service in the 242
other state. 243

(D) Except for the provisions of this chapter pertaining to 244
the personal liability of members, employees, or other agents of a 245
limited liability company and, if the management of the company is 246
not reserved to its members, the personal liability of managers of 247
the company, this chapter does not restrict, limit, or otherwise 248
affect the authority or responsibilities of any agency, board, 249
commission, department, office, or other entity to license, 250
certificate, register, and otherwise regulate the professional 251
conduct of individuals or organizations of any kind rendering 252
professional services in this state or to regulate the practice of 253
any profession that is within the jurisdiction of the agency, 254
board, commission, department, office, or other entity, 255
notwithstanding that the individual is a member or manager of a 256
limited liability company and is rendering the professional 257
services or engaging in the practice of the profession through the 258
limited liability company or that the organization is a limited 259
liability company. 260

(E) No limited liability company formed for the purpose of 261
providing a combination of the professional services, as defined 262
in section 1785.01 of the Revised Code, of optometrists authorized 263
under Chapter 4725. of the Revised Code, chiropractors authorized 264
under Chapter 4734. of the Revised Code to practice chiropractic 265
or acupuncture, psychologists authorized under Chapter 4732. of 266
the Revised Code, registered or licensed practical nurses 267
authorized under Chapter 4723. of the Revised Code, pharmacists 268
authorized under Chapter 4729. of the Revised Code, physical 269

therapists authorized under sections 4755.40 to ~~4755.53~~ 4755.56 of 270
the Revised Code, mechanotherapists authorized under section 271
4731.151 of the Revised Code, and doctors of medicine and surgery, 272
osteopathic medicine and surgery, or podiatric medicine and 273
surgery authorized under Chapter 4731. of the Revised Code shall 274
control the professional clinical judgment exercised within 275
accepted and prevailing standards of practice of a licensed, 276
certificated, or otherwise legally authorized optometrist, 277
chiropractor, chiropractor practicing acupuncture through the 278
state chiropractic board, psychologist, nurse, pharmacist, 279
physical therapist, mechanotherapist, or doctor of medicine and 280
surgery, osteopathic medicine and surgery, or podiatric medicine 281
and surgery in rendering care, treatment, or professional advice 282
to an individual patient. 283

This division does not prevent a hospital, as defined in 284
section 3727.01 of the Revised Code, insurer, as defined in 285
section 3999.36 of the Revised Code, or intermediary organization, 286
as defined in section 1751.01 of the Revised Code, from entering 287
into a contract with a limited liability company described in this 288
division that includes a provision requiring utilization review, 289
quality assurance, peer review, or other performance or quality 290
standards. Those activities shall not be construed as controlling 291
the professional clinical judgment of an individual practitioner 292
listed in this division. 293

Sec. 1705.53. Subject to any contrary provisions of the Ohio 294
Constitution, the laws of the state under which a foreign limited 295
liability company is organized govern its organization and 296
internal affairs and the liability of its members. A foreign 297
limited liability company may not be denied a certificate of 298
registration as a foreign limited liability company in this state 299
because of any difference between the laws of the state under 300
which it is organized and the laws of this state. However, a 301

foreign limited liability company that applies for registration 302
under this chapter to render a professional service in this state, 303
as a condition to obtaining and maintaining a certificate of 304
registration, shall comply with the requirements of division (C) 305
of section 1705.04 of the Revised Code and shall comply with the 306
requirements of Chapters 4703. and 4733. of the Revised Code if 307
the kinds of professional services authorized under those chapters 308
are to be rendered or with the requirements of Chapters 4723., 309
4725., 4729., 4731., 4732., 4734., and 4755. of the Revised Code 310
if a combination of the professional services of optometrists 311
authorized under Chapter 4725. of the Revised Code, chiropractors 312
authorized under Chapter 4734. of the Revised Code to practice 313
chiropractic or acupuncture, psychologists authorized under 314
Chapter 4732. of the Revised Code, registered or licensed 315
practical nurses authorized under Chapter 4723. of the Revised 316
Code, pharmacists authorized under Chapter 4729. of the Revised 317
Code, physical therapists authorized under sections 4755.40 to 318
~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists authorized 319
under section 4731.151 of the Revised Code, and doctors of 320
medicine and surgery, osteopathic medicine and surgery, or 321
podiatric medicine and surgery authorized under Chapter 4731. of 322
the Revised Code are to be rendered. 323

Sec. 1785.01. As used in this chapter: 324

(A) "Professional service" means any type of professional 325
service that may be performed only pursuant to a license, 326
certificate, or other legal authorization issued pursuant to 327
Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 328
4731., 4732., 4733., 4734., or 4741., sections 4755.01 to 4755.12, 329
or 4755.40 to 4755.56 of the Revised Code to certified public 330
accountants, licensed public accountants, architects, attorneys, 331
dentists, nurses, optometrists, pharmacists, physician assistants, 332
doctors of medicine and surgery, doctors of osteopathic medicine 333

and surgery, doctors of podiatric medicine and surgery, 334
practitioners of the limited branches of medicine specified in 335
section 4731.15 of the Revised Code, mechanotherapists, 336
psychologists, professional engineers, chiropractors, 337
chiropractors practicing acupuncture through the state 338
chiropractic board, veterinarians, occupational therapists, and 339
physical therapists. 340

(B) "Professional association" means an association organized 341
under this chapter for the sole purpose of rendering one of the 342
professional services authorized under Chapter 4701., 4703., 343
4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 344
4734., or 4741., sections 4755.01 to 4755.12, or 4755.40 to 345
4755.56 of the Revised Code, a combination of the professional 346
services authorized under Chapters 4703. and 4733. of the Revised 347
Code, or a combination of the professional services of 348
optometrists authorized under Chapter 4725. of the Revised Code, 349
chiropractors authorized under Chapter 4734. of the Revised Code 350
to practice chiropractic or acupuncture, psychologists authorized 351
under Chapter 4732. of the Revised Code, registered or licensed 352
practical nurses authorized under Chapter 4723. of the Revised 353
Code, pharmacists authorized under Chapter 4729. of the Revised 354
Code, physical therapists authorized under sections 4755.40 to 355
~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists authorized 356
under section 4731.151 of the Revised Code, and doctors of 357
medicine and surgery, osteopathic medicine and surgery, or 358
podiatric medicine and surgery authorized under Chapter 4731. of 359
the Revised Code. 360

Sec. 1785.02. An individual or group of individuals each of 361
whom is licensed, certificated, or otherwise legally authorized to 362
render within this state the same kind of professional service, a 363
group of individuals each of whom is licensed, certificated, or 364
otherwise legally authorized to render within this state the 365

professional service authorized under Chapter 4703. or 4733. of 366
the Revised Code, or a group of individuals each of whom is 367
licensed, certificated, or otherwise legally authorized to render 368
within this state the professional service of optometrists 369
authorized under Chapter 4725. of the Revised Code, chiropractors 370
authorized under Chapter 4734. of the Revised Code to practice 371
chiropractic or acupuncture, psychologists authorized under 372
Chapter 4732. of the Revised Code, registered or licensed 373
practical nurses authorized under Chapter 4723. of the Revised 374
Code, pharmacists authorized under Chapter 4729. of the Revised 375
Code, physical therapists authorized under sections 4755.40 to 376
~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists authorized 377
under section 4731.151 of the Revised Code, or doctors of medicine 378
and surgery, osteopathic medicine and surgery, or podiatric 379
medicine and surgery authorized under Chapter 4731. of the Revised 380
Code may organize and become a shareholder or shareholders of a 381
professional association. Any group of individuals described in 382
this section who may be rendering one of the professional services 383
as an organization created otherwise than pursuant to this chapter 384
may incorporate under and pursuant to this chapter by amending the 385
agreement establishing the organization in a manner that the 386
agreement as amended constitutes articles of incorporation 387
prepared and filed in the manner prescribed in section 1785.08 of 388
the Revised Code and by otherwise complying with the applicable 389
requirements of this chapter. 390

Sec. 1785.03. A professional association may render a 391
particular professional service only through officers, employees, 392
and agents who are themselves duly licensed, certificated, or 393
otherwise legally authorized to render the professional service 394
within this state. As used in this section, "employee" does not 395
include clerks, bookkeepers, technicians, or other individuals who 396
are not usually and ordinarily considered by custom and practice 397

to be rendering a particular professional service for which a 398
license, certificate, or other legal authorization is required and 399
does not include any other person who performs all of that 400
person's employment under the direct supervision and control of an 401
officer, agent, or employee who renders a particular professional 402
service to the public on behalf of the professional association. 403

No professional association formed for the purpose of 404
providing a combination of the professional services, as defined 405
in section 1785.01 of the Revised Code, of optometrists authorized 406
under Chapter 4725. of the Revised Code, chiropractors authorized 407
under Chapter 4734. of the Revised Code to practice chiropractic 408
or acupuncture, psychologists authorized under Chapter 4732. of 409
the Revised Code, registered or licensed practical nurses 410
authorized under Chapter 4723. of the Revised Code, pharmacists 411
authorized under Chapter 4729. of the Revised Code, physical 412
therapists authorized under sections 4755.40 to ~~4755.53~~ 4755.56 of 413
the Revised Code, mechanotherapists authorized under section 414
4731.151 of the Revised Code, and doctors of medicine and surgery, 415
osteopathic medicine and surgery, or podiatric medicine and 416
surgery authorized under Chapter 4731. of the Revised Code shall 417
control the professional clinical judgment exercised within 418
accepted and prevailing standards of practice of a licensed, 419
certificated, or otherwise legally authorized optometrist, 420
chiropractor, chiropractor practicing acupuncture through the 421
state chiropractic board, psychologist, nurse, pharmacist, 422
physical therapist, mechanotherapist, or doctor of medicine and 423
surgery, osteopathic medicine and surgery, or podiatric medicine 424
and surgery in rendering care, treatment, or professional advice 425
to an individual patient. 426

This division does not prevent a hospital, as defined in 427
section 3727.01 of the Revised Code, insurer, as defined in 428
section 3999.36 of the Revised Code, or intermediary organization, 429

as defined in section 1751.01 of the Revised Code, from entering 430
into a contract with a professional association described in this 431
division that includes a provision requiring utilization review, 432
quality assurance, peer review, or other performance or quality 433
standards. Those activities shall not be construed as controlling 434
the professional clinical judgment of an individual practitioner 435
listed in this division. 436

Sec. 1785.08. Chapter 1701. of the Revised Code applies to 437
professional associations, including their organization and the 438
manner of filing articles of incorporation, except that the 439
requirements of division (A) of section 1701.06 of the Revised 440
Code do not apply to professional associations. If any provision 441
of this chapter conflicts with any provision of Chapter 1701. of 442
the Revised Code, the provisions of this chapter shall take 443
precedence. A professional association for the practice of 444
medicine and surgery, osteopathic medicine and surgery, or 445
podiatric medicine and surgery or for the combined practice of 446
optometry, chiropractic, acupuncture through the state 447
chiropractic board, psychology, nursing, pharmacy, physical 448
therapy, mechanotherapy, medicine and surgery, osteopathic 449
medicine and surgery, or podiatric medicine and surgery may 450
provide in its articles of incorporation or bylaws that its 451
directors may have terms of office not exceeding six years. 452

Sec. 3715.87. (A) As used in this section and in sections 453
3715.871, 3715.872, and 3715.873 of the Revised Code: 454

(1) "Health care facility" has the same meaning as in section 455
1337.11 of the Revised Code. 456

(2) "Hospital" has the same meaning as in section 3727.01 of 457
the Revised Code. 458

~~(2)~~(3) "Nonprofit clinic" means a charitable nonprofit 459

corporation organized and operated pursuant to Chapter 1702. of 460
the Revised Code, or any charitable organization not organized and 461
not operated for profit, that provides health care services to 462
indigent and uninsured persons as defined in section 2305.234 of 463
the Revised Code. "Nonprofit clinic" does not include a hospital 464
as defined in section 3727.01 of the Revised Code, a facility 465
licensed under Chapter 3721. of the Revised Code, or a facility 466
that is operated for profit. 467

~~(3)~~(4) "Prescription drug" means any drug to which the 468
following applies: 469

(a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 470
(1938), 21 U.S.C.A. 301, as amended, the drug is required to bear 471
a label containing the legend, "Caution: Federal law prohibits 472
dispensing without prescription" or "Caution: Federal law 473
restricts this drug to use by or on the order of a licensed 474
veterinarian" or any similar restrictive statement, or the drug 475
may be dispensed only upon a prescription. 476

(b) Under Chapter 3715. or 3719. of the Revised Code, the 477
drug may be dispensed only upon a prescription. 478

(B) The state board of pharmacy shall establish a drug 479
repository program to accept and dispense prescription drugs 480
donated or given for the purpose of being dispensed to individuals 481
who are residents of this state and meet eligibility standards 482
established in rules adopted by the board under section 3715.873 483
of the Revised Code. Only drugs in their original sealed and 484
tamper-evident unit dose packaging may be accepted and dispensed. 485
The packaging must be unopened, except that drugs packaged in 486
single unit doses may be accepted and dispensed when the outside 487
packaging is opened if the single unit dose packaging is 488
undisturbed. Drugs donated by individuals bearing an expiration 489
date that is less than six months from the date the drug is 490
donated shall not be accepted or dispensed. A drug shall not be 491

accepted or dispensed if there is reason to believe that it is 492
adulterated as described in section 3715.63 of the Revised Code. 493
Subject to the ~~limitation~~ limitations specified in this division, 494
unused drugs dispensed for purposes of the medicaid program may be 495
accepted and dispensed under the drug repository program. 496

Sec. 3715.871. (A) Any person, including a pharmacy, drug 497
manufacturer, ~~or any health care facility as defined in section~~ 498
~~1337.11 of the Revised Code, or any government entity~~ may donate 499
or give prescription drugs to the drug repository program. The 500
drugs must be donated or given at a pharmacy, hospital, or 501
nonprofit clinic that elects to participate in the drug repository 502
program and meets criteria for participation in the program 503
established in rules adopted by the state board of pharmacy under 504
section 3715.873 of the Revised Code. Participation in the program 505
by pharmacies, hospitals, and nonprofit clinics is voluntary. 506
Nothing in this or any other section of the Revised Code requires 507
a pharmacy, hospital, or nonprofit clinic to participate in the 508
program. 509

(B) A pharmacy, hospital, or nonprofit clinic eligible to 510
participate in the program shall dispense drugs donated or given 511
under this section to individuals who are residents of this state 512
and meet the eligibility standards established in rules adopted by 513
the board under section 3715.873 of the Revised Code or to other 514
government entities and nonprofit private entities to be dispensed 515
to individuals who meet the eligibility standards. A drug may be 516
dispensed only pursuant to a prescription issued by a licensed 517
health professional authorized to prescribe drugs, as defined in 518
section 4729.01 of the Revised Code. A pharmacy, hospital, or 519
nonprofit clinic that accepts donated or given drugs shall comply 520
with all applicable federal laws and laws of this state dealing 521
with storage and distribution of dangerous drugs and shall inspect 522
all drugs prior to dispensing them to determine that they are not 523

adulterated. The pharmacy, hospital, or nonprofit clinic may 524
charge individuals receiving donated or given drugs a handling fee 525
established in accordance with rules adopted by the board under 526
section 3715.873 of the Revised Code. Drugs donated or given to 527
the repository may not be resold. 528

Sec. 3715.872. (A) As used in this section, "health care 529
professional" means any of the following who provide medical, 530
dental, or other health-related diagnosis, care, or treatment: 531

(1) Individuals authorized under Chapter 4731. of the Revised 532
Code to practice medicine and surgery, osteopathic medicine and 533
surgery, or podiatric medicine and surgery; 534

(2) Registered nurses and licensed practical nurses licensed 535
under Chapter 4723. of the Revised Code; 536

(3) Physician assistants authorized to practice under Chapter 537
4730. of the Revised Code; 538

(4) Dentists and dental hygienists licensed under Chapter 539
4715. of the Revised Code; 540

(5) Optometrists licensed under Chapter 4725. of the Revised 541
Code; 542

(6) Pharmacists licensed under Chapter 4729. of the Revised 543
Code. 544

(B) ~~The state board of pharmacy; the director of health; any~~ 545
For matters related to donating, giving, accepting, or dispensing 546
drugs under the drug repository program, all of the following 547
apply: 548

(1) Any person, including a pharmacy, drug manufacturer, or 549
health care facility, or any government entity that donates or 550
gives drugs to the drug repository program; ~~any pharmacy,~~ 551
~~hospital, nonprofit clinic, or health care professional that~~ 552
~~accepts or dispenses drugs under the program; and any pharmacy,~~ 553

hospital, or nonprofit clinic that employs a health care 554
professional who accepts or dispenses drugs under the program 555
shall not, in the absence of bad faith, be subject to any of the 556
following for matters related to donating, accepting, or 557
dispensing drugs under the program: criminal prosecution; 558
liability in tort or other civil action for injury, death, or loss 559
to person or property; or professional disciplinary action. 560

A (2) A pharmacy, hospital, or nonprofit clinic that accepts 561
or dispenses drugs under the program shall not be subject to 562
liability in tort or other civil action for injury, death, or loss 563
to person or property, unless an action or omission of the 564
pharmacy, hospital, or nonprofit clinic constitutes willful and 565
wanton misconduct. 566

(3) A health care professional who accepts or dispenses drugs 567
under the program on behalf of a pharmacy, hospital, or nonprofit 568
clinic, and the pharmacy, hospital, or nonprofit clinic that 569
employs or otherwise uses the services of the health care 570
professional, shall not be subject to liability in tort or other 571
civil action for injury, death, or loss to person or property, 572
unless an action or omission of the health care professional, 573
pharmacy, hospital, or nonprofit clinic constitutes willful and 574
wanton misconduct. 575

(4) The state board of pharmacy and the director of health 576
shall not be subject to liability in tort or other civil action 577
for injury, death, or loss to person or property, unless an action 578
or omission of the board or director constitutes willful and 579
wanton misconduct. 580

(C) In addition to the immunity granted under division (B)(1) 581
of this section, any person, including a pharmacy, drug 582
manufacturer, or health care facility, and any government entity 583
that donates or gives drugs to the program shall not be subject to 584
criminal prosecution for the donation, giving, acceptance, or 585

dispensing of drugs under the program, unless an action or 586
omission of the person or government entity does not comply with 587
the provisions of this chapter or the rules adopted under it. 588

(D) In the case of a drug manufacturer ~~shall not, in the~~ 589
absence of bad faith, be subject to criminal prosecution or 590
liability in tort or other civil action for injury, death, or loss 591
to person or property for matters related to the donation, 592
acceptance, or dispensing of a, the immunities granted under 593
divisions (B)(1) and (C) of this section apply with respect to any 594
drug manufactured by the drug manufacturer that is donated or 595
given by any person or government entity under the program, 596
including but not limited to liability for failure to transfer or 597
communicate product or consumer information or the expiration date 598
of the ~~donated~~ drug donated or given. 599

Sec. 3715.873. In consultation with the director of health, 600
the state board of pharmacy shall adopt rules governing the drug 601
repository program that establish all of the following: 602

(A) Eligibility criteria for pharmacies, hospitals, and 603
nonprofit clinics to receive and dispense ~~donated~~ drugs donated or 604
given under the program; 605

(B) Standards and procedures for accepting, safely storing, 606
and dispensing ~~donated~~ drugs donated or given; 607

(C) Standards and procedures for inspecting ~~donated~~ drugs 608
donated or given to determine that the original unit dose 609
packaging is sealed and tamper-evident and that the drugs are 610
unadulterated, safe, and suitable for dispensing; 611

(D) Eligibility standards based on economic need for 612
individuals to receive drugs; 613

(E) A means, such as an identification card, by which an 614
individual who is eligible to receive ~~donated~~ drugs under the 615

program may demonstrate eligibility to the pharmacy, hospital, or 616
nonprofit clinic dispensing the drugs; 617

(F) A form that an individual receiving a drug ~~from~~ under the 618
~~repository~~ program must sign before receiving the drug to confirm 619
that the individual understands the immunity provisions of the 620
program; 621

(G) A formula to determine the amount of a handling fee that 622
pharmacies, hospitals, and nonprofit clinics may charge to drug 623
recipients to cover restocking and dispensing costs; 624

(H) In addition, for drugs donated or given to the ~~repository~~ 625
program by individuals: 626

(1) A list of drugs, arranged either by category or by 627
individual drug, that the ~~repository~~ program will accept from 628
individuals; 629

(2) A list of drugs, arranged either by category or by 630
individual drug, that the ~~repository~~ program will not accept from 631
individuals. The list must include a statement as to why the drug 632
is ineligible ~~for donation~~ to be donated or given. 633

(3) A form each donor must sign stating that the donor is the 634
owner of the drugs and intends to voluntarily donate them to the 635
~~repository~~ program. 636

(I) In addition, for drugs donated to the ~~repository~~ program 637
by health care facilities: 638

(1) A list of drugs, arranged either by category or by 639
individual drug, that the ~~repository~~ program will accept from 640
health care facilities; 641

(2) A list of drugs, arranged either by category or by 642
individual drug, that the ~~repository~~ program will not accept from 643
health care facilities. The list must include a statement as to 644
why the drug is ineligible ~~for donation~~ to be donated or given. 645

(J) Any other standards and procedures the board considers 646
appropriate. 647

The rules shall be adopted in accordance with Chapter 119. of 648
the Revised Code. 649

Sec. 4723.16. (A) An individual whom the board of nursing 650
licenses, certificates, or otherwise legally authorizes to engage 651
in the practice of nursing as a registered nurse or as a licensed 652
practical nurse may render the professional services of a 653
registered or licensed practical nurse within this state through a 654
corporation formed under division (B) of section 1701.03 of the 655
Revised Code, a limited liability company formed under Chapter 656
1705. of the Revised Code, a partnership, or a professional 657
association formed under Chapter 1785. of the Revised Code. This 658
division does not preclude an individual of that nature from 659
rendering professional services as a registered or licensed 660
practical nurse through another form of business entity, 661
including, but not limited to, a nonprofit corporation or 662
foundation, or in another manner that is authorized by or in 663
accordance with this chapter, another chapter of the Revised Code, 664
or rules of the board of nursing adopted pursuant to this chapter. 665

(B) A corporation, limited liability company, partnership, or 666
professional association described in division (A) of this section 667
may be formed for the purpose of providing a combination of the 668
professional services of the following individuals who are 669
licensed, certificated, or otherwise legally authorized to 670
practice their respective professions: 671

(1) Optometrists who are authorized to practice optometry 672
under Chapter 4725. of the Revised Code; 673

(2) Chiropractors who are authorized to practice chiropractic 674
or acupuncture under Chapter 4734. of the Revised Code; 675

(3) Psychologists who are authorized to practice psychology 676
under Chapter 4732. of the Revised Code; 677

(4) Registered or licensed practical nurses who are 678
authorized to practice nursing as registered nurses or as licensed 679
practical nurses under this chapter; 680

(5) Pharmacists who are authorized to practice pharmacy under 681
Chapter 4729. of the Revised Code; 682

(6) Physical therapists who are authorized to practice 683
physical therapy under sections 4755.40 to ~~4755.53~~ 4755.56 of the 684
Revised Code; 685

(7) Mechanotherapists who are authorized to practice 686
mechanotherapy under section 4731.151 of the Revised Code; 687

(8) Doctors of medicine and surgery, osteopathic medicine and 688
surgery, or podiatric medicine and surgery who are licensed, 689
certificated, or otherwise legally authorized for their respective 690
practices under Chapter 4731. of the Revised Code. 691

This division shall apply notwithstanding a provision of a 692
code of ethics applicable to a nurse that prohibits a registered 693
or licensed practical nurse from engaging in the practice of 694
nursing as a registered nurse or as a licensed practical nurse in 695
combination with a person who is licensed, certificated, or 696
otherwise legally authorized to practice optometry, chiropractic, 697
acupuncture through the state chiropractic board, psychology, 698
pharmacy, physical therapy, mechanotherapy, medicine and surgery, 699
osteopathic medicine and surgery, or podiatric medicine and 700
surgery, but who is not also licensed, certificated, or otherwise 701
legally authorized to engage in the practice of nursing as a 702
registered nurse or as a licensed practical nurse. 703

Sec. 4725.33. (A) An individual whom the state board of 704
optometry licenses to engage in the practice of optometry may 705

render the professional services of an optometrist within this 706
state through a corporation formed under division (B) of section 707
1701.03 of the Revised Code, a limited liability company formed 708
under Chapter 1705. of the Revised Code, a partnership, or a 709
professional association formed under Chapter 1785. of the Revised 710
Code. This division does not preclude an optometrist from 711
rendering professional services as an optometrist through another 712
form of business entity, including, but not limited to, a 713
nonprofit corporation or foundation, or in another manner that is 714
authorized by or in accordance with this chapter, another chapter 715
of the Revised Code, or rules of the state board of optometry 716
adopted pursuant to this chapter. 717

(B) A corporation, limited liability company, partnership, or 718
professional association described in division (A) of this section 719
may be formed for the purpose of providing a combination of the 720
professional services of the following individuals who are 721
licensed, certificated, or otherwise legally authorized to 722
practice their respective professions: 723

(1) Optometrists who are authorized to practice optometry 724
under Chapter 4725. of the Revised Code; 725

(2) Chiropractors who are authorized to practice chiropractic 726
or acupuncture under Chapter 4734. of the Revised Code; 727

(3) Psychologists who are authorized to practice psychology 728
under Chapter 4732. of the Revised Code; 729

(4) Registered or licensed practical nurses who are 730
authorized to practice nursing as registered nurses or as licensed 731
practical nurses under Chapter 4723. of the Revised Code; 732

(5) Pharmacists who are authorized to practice pharmacy under 733
Chapter 4729. of the Revised Code; 734

(6) Physical therapists who are authorized to practice 735
physical therapy under sections 4755.40 to 4755.56 of the Revised 736

Code; 737

(7) Mechanotherapists who are authorized to practice 738
mechanotherapy under section 4731.151 of the Revised Code; 739

(8) Doctors of medicine and surgery, osteopathic medicine and 740
surgery, or podiatric medicine and surgery who are authorized for 741
their respective practices under Chapter 4731. of the Revised 742
Code. 743

This division shall apply notwithstanding a provision of a 744
code of ethics applicable to an optometrist that prohibits an 745
optometrist from engaging in the practice of optometry in 746
combination with a person who is licensed, certificated, or 747
otherwise legally authorized to practice chiropractic, acupuncture 748
through the state chiropractic board, psychology, nursing, 749
pharmacy, physical therapy, mechanotherapy, medicine and surgery, 750
osteopathic medicine and surgery, or podiatric medicine and 751
surgery, but who is not also licensed, certificated, or otherwise 752
legally authorized to engage in the practice of optometry. 753

Sec. 4729.161. (A) An individual registered with the state 754
board of pharmacy to engage in the practice of pharmacy may render 755
the professional services of a pharmacist within this state 756
through a corporation formed under division (B) of section 1701.03 757
of the Revised Code, a limited liability company formed under 758
Chapter 1705. of the Revised Code, a partnership, or a 759
professional association formed under Chapter 1785. of the Revised 760
Code. This division does not preclude an individual of that nature 761
from rendering professional services as a pharmacist through 762
another form of business entity, including, but not limited to, a 763
nonprofit corporation or foundation, or in another manner that is 764
authorized by or in accordance with this chapter, another chapter 765
of the Revised Code, or rules of the state board of pharmacy 766
adopted pursuant to this chapter. 767

(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 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, 798
acupuncture through the state chiropractic board, psychology, 799
nursing, physical therapy, mechanotherapy, medicine and surgery, 800
osteopathic medicine and surgery, or podiatric medicine and 801
surgery, but who is not also licensed, certificated, or otherwise 802
legally authorized to engage in the practice of pharmacy. 803

Sec. 4731.226. (A)(1) An individual whom the state medical 804
board licenses, certificates, or otherwise legally authorizes to 805
engage in the practice of medicine and surgery, osteopathic 806
medicine and surgery, or podiatric medicine and surgery may render 807
the professional services of a doctor of medicine and surgery, 808
osteopathic medicine and surgery, or podiatric medicine and 809
surgery within this state through a corporation formed under 810
division (B) of section 1701.03 of the Revised Code, a limited 811
liability company formed under Chapter 1705. of the Revised Code, 812
a partnership, or a professional association formed under Chapter 813
1785. of the Revised Code. Division (A)(1) of this section does 814
not preclude an individual of that nature from rendering 815
professional services as a doctor of medicine and surgery, 816
osteopathic medicine and surgery, or podiatric medicine and 817
surgery through another form of business entity, including, but 818
not limited to, a nonprofit corporation or foundation, or in 819
another manner that is authorized by or in accordance with this 820
chapter, another chapter of the Revised Code, or rules of the 821
state medical board adopted pursuant to this chapter. 822

(2) An individual whom the state medical board authorizes to 823
engage in the practice of mechanotherapy may render the 824
professional services of a mechanotherapist within this state 825
through a corporation formed under division (B) of section 1701.03 826
of the Revised Code, a limited liability company formed under 827
Chapter 1705. of the Revised Code, a partnership, or a 828
professional association formed under Chapter 1785. of the Revised 829

Code. Division (A)(2) of this section does not preclude an 830
individual of that nature from rendering professional services as 831
a mechanotherapist through another form of business entity, 832
including, but not limited to, a nonprofit corporation or 833
foundation, or in another manner that is authorized by or in 834
accordance with this chapter, another chapter of the Revised Code, 835
or rules of the state medical board adopted pursuant to this 836
chapter. 837

(B) A corporation, limited liability company, partnership, or 838
professional association described in division (A) of this section 839
may be formed for the purpose of providing a combination of the 840
professional services of the following individuals who are 841
licensed, certificated, or otherwise legally authorized to 842
practice their respective professions: 843

(1) Optometrists who are authorized to practice optometry 844
under Chapter 4725. of the Revised Code; 845

(2) Chiropractors who are authorized to practice chiropractic 846
or acupuncture under Chapter 4734. of the Revised Code; 847

(3) Psychologists who are authorized to practice psychology 848
under Chapter 4732. of the Revised Code; 849

(4) Registered or licensed practical nurses who are 850
authorized to practice nursing as registered nurses or as licensed 851
practical nurses under Chapter 4723. of the Revised Code; 852

(5) Pharmacists who are authorized to practice pharmacy under 853
Chapter 4729. of the Revised Code; 854

(6) Physical therapists who are authorized to practice 855
physical therapy under sections 4755.40 to ~~4755.53~~ 4755.56 of the 856
Revised Code; 857

(7) Mechanotherapists who are authorized to practice 858
mechanotherapy under section 4731.151 of the Revised Code; 859

(8) 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, 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, 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 891
124.14 of the Revised Code, as a hearing ~~examiner~~ examiners, 892
subject to Chapter 119. of the Revised Code, to conduct any 893
hearing which the medical board is empowered to hold or undertake 894
pursuant to Chapter 119. of the Revised Code. ~~Such~~ 895

(b) Notwithstanding the requirement of division (A)(1)(a) of 896
this section that the board designate as a hearing examiner an 897
attorney who is classified as either an administrative law 898
attorney examiner or an administrative law attorney examiner 899
administrator, the board may, subject to controlling board 900
approval, enter into a personal service contract with an attorney 901
admitted to the practice of law in this state to serve on a 902
temporary basis as a hearing examiner. 903

(2) The hearing examiner shall hear and consider the oral and 904
documented evidence introduced by the parties and issue in writing 905
proposed findings of fact and conclusions of law to the board for 906
their consideration within thirty days following the close of the 907
hearing. 908

(B) The board shall be given copies of the transcript of the 909
record hearing and all exhibits and documents presented by the 910
parties at the hearing. 911

(C) The board shall, upon the favorable vote of three 912
members, allow the parties or their counsel the opportunity to 913
present oral arguments on the proposed findings of fact and 914
conclusions of law of the hearing examiner prior to the board's 915
final action. 916

(D) The board shall render a decision and take action within 917
sixty days following the receipt of the hearing examiner's 918
proposed findings of fact and conclusions of law or within any 919
longer period mutually agreed upon by the board and the 920
certificate holder. 921

(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 951
the additional value the prospective lessee or lessor would 952
attribute to the proximity or convenience to the lessor if the 953
lessor is a potential source of referrals to the lessee. 954

(D) "Governmental health care program" means any program 955
providing health care benefits that is administered by the federal 956
government, this state, or a political subdivision of this state, 957
including the medicare program established under Title XVIII of 958
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 959
as amended, health care coverage for public employees, health care 960
benefits administered by the bureau of workers' compensation, the 961
medical assistance program established under Chapter 5111. of the 962
Revised Code, and the disability medical assistance program 963
established under Chapter 5115. of the Revised Code. 964

(E)(1) "Group practice" means a group of two or more holders 965
of certificates under this chapter legally organized as a 966
partnership, professional corporation or association, limited 967
liability company, foundation, nonprofit corporation, faculty 968
practice plan, or similar group practice entity, including an 969
organization comprised of a nonprofit medical clinic that 970
contracts with a professional corporation or association of 971
physicians to provide medical services exclusively to patients of 972
the clinic in order to comply with section 1701.03 of the Revised 973
Code and including a corporation, limited liability company, 974
partnership, or professional association described in division (B) 975
of section 4731.226 of the Revised Code formed for the purpose of 976
providing a combination of the professional services of 977
optometrists who are licensed, certificated, or otherwise legally 978
authorized to practice optometry under Chapter 4725. of the 979
Revised Code, chiropractors who are licensed, certificated, or 980
otherwise legally authorized to practice chiropractic or 981
acupuncture under Chapter 4734. of the Revised Code, psychologists 982

who are licensed, certificated, or otherwise legally authorized to 983
practice psychology under Chapter 4732. of the Revised Code, 984
registered or licensed practical nurses who are licensed, 985
certificated, or otherwise legally authorized to practice nursing 986
under Chapter 4723. of the Revised Code, pharmacists who are 987
licensed, certificated, or otherwise legally authorized to 988
practice pharmacy under Chapter 4729. of the Revised Code, 989
physical therapists who are licensed, certificated, or otherwise 990
legally authorized to practice physical therapy under sections 991
4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, mechanotherapists 992
who are licensed, certificated, or otherwise legally authorized to 993
practice mechanotherapy under section 4731.151 of the Revised 994
Code, and doctors of medicine and surgery, osteopathic medicine 995
and surgery, or podiatric medicine and surgery who are licensed, 996
certificated, or otherwise legally authorized for their respective 997
practices under this chapter, to which all of the following apply: 998

(a) Each physician who is a member of the group practice 999
provides substantially the full range of services that the 1000
physician routinely provides, including medical care, 1001
consultation, diagnosis, or treatment, through the joint use of 1002
shared office space, facilities, equipment, and personnel. 1003

(b) Substantially all of the services of the members of the 1004
group are provided through the group and are billed in the name of 1005
the group and amounts so received are treated as receipts of the 1006
group. 1007

(c) The overhead expenses of and the income from the practice 1008
are distributed in accordance with methods previously determined 1009
by members of the group. 1010

(d) The group practice meets any other requirements that the 1011
state medical board applies in rules adopted under section 4731.70 1012
of the Revised Code. 1013

(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 1044
rendering professional services as a psychologist through another 1045
form of business entity, including, but not limited to, a 1046
nonprofit corporation or foundation, or in another manner that is 1047
authorized by or in accordance with this chapter, another chapter 1048
of the Revised Code, or rules of the state board of psychology 1049
adopted pursuant to this chapter. 1050

(B) A corporation, limited liability company, partnership, or 1051
professional association described in division (A) of this section 1052
may be formed for the purpose of providing a combination of the 1053
professional services of the following individuals who are 1054
licensed, certificated, or otherwise legally authorized to 1055
practice their respective professions: 1056

(1) Optometrists who are authorized to practice optometry 1057
under Chapter 4725. of the Revised Code; 1058

(2) Chiropractors who are authorized to practice chiropractic 1059
or acupuncture under Chapter 4734. of the Revised Code; 1060

(3) Psychologists who are authorized to practice psychology 1061
under this chapter; 1062

(4) Registered or licensed practical nurses who are 1063
authorized to practice nursing as registered nurses or as licensed 1064
practical nurses under Chapter 4723. of the Revised Code; 1065

(5) Pharmacists who are authorized to practice pharmacy under 1066
Chapter 4729. of the Revised Code; 1067

(6) Physical therapists who are authorized to practice 1068
physical therapy under sections 4755.40 to ~~4755.53~~ 4755.56 of the 1069
Revised Code; 1070

(7) Mechanotherapists who are authorized to practice 1071
mechanotherapy under section 4731.151 of the Revised Code; 1072

(8) Doctors of medicine and surgery, osteopathic medicine and 1073

surgery, or podiatric medicine and surgery who are authorized for 1074
their respective practices under Chapter 4731. of the Revised 1075
Code. 1076

This division shall apply notwithstanding a provision of a 1077
code of ethics applicable to a psychologist that prohibits a 1078
psychologist from engaging in the practice of psychology in 1079
combination with a person who is licensed, certificated, or 1080
otherwise legally authorized to practice optometry, chiropractic, 1081
acupuncture through the state chiropractic board, nursing, 1082
pharmacy, physical therapy, mechanotherapy, medicine and surgery, 1083
osteopathic medicine and surgery, or podiatric medicine and 1084
surgery, but who is not also licensed, certificated, or otherwise 1085
legally authorized to engage in the practice of psychology. 1086

Sec. 4734.10. In addition to rules that are required by this 1087
chapter to be adopted, the state chiropractic board may adopt any 1088
other rules necessary to govern the practice of chiropractic and 1089
acupuncture under this chapter and to administer and enforce this 1090
chapter. The rules shall be adopted in accordance with Chapter 1091
119. of the Revised Code. 1092

Sec. 4734.141. Except for individuals described in section 1093
4762.02 of the Revised Code, no person who holds a license to 1094
practice chiropractic issued by the state chiropractic board shall 1095
engage in the practice of acupuncture unless the person holds a 1096
valid certificate to practice acupuncture issued by the board 1097
under section 4734.283 of the Revised Code. 1098

Sec. 4734.142. No person who holds a certificate to practice 1099
acupuncture issued by the state chiropractic board under section 1100
4734.283 of the Revised Code shall do any of the following: 1101

(A) Perform an acupuncture service that is beyond the scope 1102
of the person's education, training, and experience; 1103

(B) Advertise or otherwise represent to the public that the 1104
person is engaged in the practice of oriental medicine; 1105

(C) Permit an employee or assistant, other than an individual 1106
described in section 4762.02 of the Revised Code, to do either of 1107
the following: 1108

(1) Insert, stimulate, or remove acupuncture needles; 1109

(2) Apply moxibustion. 1110

Sec. 4734.15. (A) The license provided for in this chapter 1111
shall entitle the holder thereof to practice chiropractic in this 1112
state. All of the following apply to the practice of chiropractic 1113
in this state: 1114

(1) A chiropractor is authorized to examine, diagnose, and 1115
assume responsibility for the care of patients, any or all of 1116
which is included in the practice of chiropractic. 1117

(2) The practice of chiropractic does not permit ~~the a~~ 1118
chiropractor to treat infectious, contagious, or venereal disease, 1119
to perform surgery ~~or acupuncture~~, or to prescribe or administer 1120
drugs for treatment. 1121

(3) Except as provided in division (B) of this section, the 1122
practice of chiropractic does not permit a chiropractor to perform 1123
acupuncture. 1124

(4) A chiropractor may use roentgen rays only for diagnostic 1125
purposes. 1126

~~(4)~~(5) The practice of chiropractic does not include the 1127
performance of abortions. 1128

(B) A chiropractor who holds a valid certificate to practice 1129
acupuncture issued under section 4734.283 of the Revised Code is 1130
authorized to perform acupuncture. 1131

(C) An individual holding a valid, current license to 1132

practice chiropractic is entitled to use the title "doctor," 1133
"doctor of chiropractic," "chiropractic physician," or 1134
"chiropractic" and is a "physician" for the purposes of Chapter 1135
4123. of the Revised Code. 1136

Sec. 4734.16. The state chiropractic board may establish a 1137
code of ethics that applies to chiropractors and their practice of 1138
chiropractic ~~in this state~~ and acupuncture under this chapter. The 1139
board may establish the code of ethics by creating its own code of 1140
ethics or by adopting a code of ethics created by a state or 1141
federal organization that represents the interests of 1142
chiropractors. If a code of ethics is established, the board shall 1143
maintain current copies of the code of ethics for distribution on 1144
request. 1145

Sec. 4734.17. (A) An individual whom the state chiropractic 1146
board licenses to engage in the practice of chiropractic or 1147
certifies to practice acupuncture may render the professional 1148
services of a chiropractor or chiropractor certified to practice 1149
acupuncture within this state through a corporation formed under 1150
division (B) of section 1701.03 of the Revised Code, a limited 1151
liability company formed under Chapter 1705. of the Revised Code, 1152
a partnership, or a professional association formed under Chapter 1153
1785. of the Revised Code. This division does not preclude a 1154
chiropractor from rendering professional services as a 1155
chiropractor or chiropractor certified to practice acupuncture 1156
through another form of business entity, including, but not 1157
limited to, a nonprofit corporation or foundation, or in another 1158
manner that is authorized by or in accordance with this chapter, 1159
another chapter of the Revised Code, or rules of the state 1160
chiropractic board adopted pursuant to this chapter. 1161

(B) A corporation, limited liability company, partnership, or 1162
professional association described in division (A) of this section 1163

may be formed for the purpose of providing a combination of the 1164
professional services of the following individuals who are 1165
licensed, certificated, or otherwise legally authorized to 1166
practice their respective professions: 1167

(1) Optometrists who are authorized to practice optometry, 1168
under Chapter 4725. of the Revised Code; 1169

(2) Chiropractors who are authorized to practice chiropractic 1170
or acupuncture under this chapter; 1171

(3) Psychologists who are authorized to practice psychology 1172
under Chapter 4732. of the Revised Code; 1173

(4) Registered or licensed practical nurses who are 1174
authorized to practice nursing as registered nurses or as licensed 1175
practical nurses under Chapter 4723. of the Revised Code; 1176

(5) Pharmacists who are authorized to practice pharmacy under 1177
Chapter 4729. of the Revised Code; 1178

(6) Physical therapists who are authorized to practice 1179
physical therapy under sections 4755.40 to ~~4755.53~~ 4755.56 of the 1180
Revised Code; 1181

(7) Mechanotherapists who are authorized to practice 1182
mechanotherapy under section 4731.151 of the Revised Code; 1183

(8) Doctors of medicine and surgery, osteopathic medicine and 1184
surgery, or podiatric medicine and surgery who are authorized for 1185
their respective practices under Chapter 4731. of the Revised 1186
Code. 1187

This division shall apply notwithstanding a provision of any 1188
code of ethics established or adopted under section 4734.16 of the 1189
Revised Code that prohibits an individual from engaging in the 1190
practice of chiropractic or acupuncture in combination with an 1191
individual who is licensed, certificated, or otherwise authorized 1192
for the practice of optometry, psychology, nursing, pharmacy, 1193

physical therapy, mechanotherapy, medicine and surgery, 1194
osteopathic medicine and surgery, or podiatric medicine and 1195
surgery, but who is not also licensed under this chapter to engage 1196
in the practice of chiropractic. 1197

Sec. 4734.19. A chiropractor shall retain at the 1198
chiropractor's primary practice location a current copy of the 1199
statutes and rules governing the practice of chiropractic ~~in this~~ 1200
~~state and acupuncture under this chapter.~~ 1201

Sec. 4734.211. (A) In consultation with the state medical 1202
board, the state chiropractic board shall approve courses of study 1203
in acupuncture that prepare a chiropractor licensed under this 1204
chapter to receive a certificate to practice acupuncture issued 1205
under section 4732.283 of the Revised Code. 1206

(B) To be approved, a course of study must require the 1207
successful completion of at least three hundred hours of 1208
instruction. Of the three hundred hours of instruction, at least 1209
two hundred hours must consist of direct clinical instruction that 1210
covers all of the following: 1211

(1) Application of acupuncture techniques; 1212

(2) An introduction to traditional Chinese acupuncture; 1213

(3) Acupuncture points; 1214

(4) Applications of acupuncture in modern western medicine; 1215

(5) Guidelines on safety in acupuncture; 1216

(6) Treatment techniques. 1217

(C) In determining whether to approve a course of study, the 1218
state chiropractic board shall take into consideration the 1219
qualifications of the entity that administers the course of study. 1220
The board may approve a course of study that is administered by 1221
any of the following: 1222

<u>(1) A school or college of chiropractic that has been</u>	1223
<u>approved by a national entity acceptable to the board;</u>	1224
<u>(2) An institution with an acupuncture program that is</u>	1225
<u>accredited by the accreditation commission for acupuncture and</u>	1226
<u>oriental medicine;</u>	1227
<u>(3) A school or college of medicine and surgery, osteopathic</u>	1228
<u>medicine and surgery, or podiatric medicine and surgery;</u>	1229
<u>(4) A hospital;</u>	1230
<u>(5) An institution that holds a certificate of authorization</u>	1231
<u>from the board of regents;</u>	1232
<u>(6) An institution that holds program authorization from the</u>	1233
<u>state board of career colleges and schools under section 3332.05</u>	1234
<u>of the Revised Code.</u>	1235
 <u>Sec. 4734.28. As used in sections 4734.28 to 4734.286 of the</u>	1236
<u>Revised Code:</u>	1237
 <u>(A) "Acupuncture" means a form of health care performed by</u>	1238
<u>the insertion and removal of specialized needles, with or without</u>	1239
<u>the application of moxibustion or electrical stimulation, to</u>	1240
<u>specific areas of the human body.</u>	1241
 <u>(B) "Moxibustion" means the use of an herbal heat source on</u>	1242
<u>one or more acupuncture points.</u>	1243
 <u>Sec. 4734.281. Except in cases where a chiropractor holds a</u>	1244
<u>certificate issued under section 4762.04 of the Revised Code or is</u>	1245
<u>an individual described in division (B) of section 4762.02 of the</u>	1246
<u>Revised Code, a chiropractor licensed under this chapter shall not</u>	1247
<u>engage in the practice of acupuncture unless the chiropractor</u>	1248
<u>holds a valid certificate to practice acupuncture issued by the</u>	1249
<u>state chiropractic board under this chapter.</u>	1250

Sec. 4734.282. (A) A chiropractor licensed under this chapter 1251
seeking a certificate to practice acupuncture shall file with the 1252
state chiropractic board a written application on a form 1253
prescribed and supplied by the board. The application shall 1254
include all of the following: 1255

(1) Evidence satisfactory to the board that the applicant's 1256
license is current and valid and that the applicant is in good 1257
standing with the board; 1258

(2) Evidence satisfactory to the board that the applicant has 1259
completed a course of study in acupuncture approved by the board 1260
in accordance with section 4734.211 of the Revised Code. 1261

(3) Evidence satisfactory to the board that the applicant has 1262
passed the acupuncture examination administered by the national 1263
board of chiropractic examiners or a person that administers the 1264
examinations on the board's behalf. 1265

(B) The board shall review all applications received under 1266
this section. The board shall determine whether an applicant meets 1267
the requirements to receive a certificate to practice acupuncture 1268
not later than sixty days after receiving a complete application. 1269
The affirmative vote of not fewer than three members of the board 1270
is required to determine that an applicant meets the requirements 1271
for a certificate. 1272

(C) At the time of making application for a certificate to 1273
practice acupuncture, the applicant shall pay the board a fee in 1274
an amount determined by the board pursuant to rules adopted under 1275
section 4734.10 of the Revised Code, no part of which shall be 1276
returned. 1277

Sec. 4734.283. If the state chiropractic board determines 1278
under section 4734.282 of the Revised Code that an applicant meets 1279
the requirements for a certificate to practice acupuncture, the 1280

executive director of the board shall issue to the applicant a 1281
certificate to practice acupuncture. The certificate shall expire 1282
annually. It may be renewed in accordance with section 4734.284 of 1283
the Revised Code. 1284

Sec. 4734.284. A chiropractor seeking to renew a certificate 1285
to practice acupuncture shall follow the standard renewal 1286
procedures of Chapter 4745. of the Revised Code and do all of the 1287
following: 1288

(A) Furnish the state chiropractic board with satisfactory 1289
evidence that the chiropractor completed, during the twenty-four 1290
months immediately preceding renewal, at least twelve hours of 1291
acupuncture continuing education provided by an entity that 1292
administers a course of study approved under section 4734.211 of 1293
the Revised Code; 1294

(B) Certify to the board that the chiropractor remains in 1295
good standing with the board and has not engaged in any conduct 1296
for which the board may take action under division (C) of section 1297
4734.31 of the Revised Code; 1298

(C) Pay a renewal fee in an amount determined by the board 1299
pursuant to rules adopted under section 4734.10 of the Revised 1300
Code. 1301

Sec. 4734.285. A chiropractor who holds a certificate to 1302
practice acupuncture issued under this chapter may represent or 1303
advertise the chiropractor to be a "chiropractor certified by the 1304
state chiropractic board to practice acupuncture." Unless the 1305
chiropractor holds a license issued under section 4762.04 of the 1306
Revised Code, the chiropractor shall not represent or advertise 1307
the chiropractor as holding any of the titles listed in section 1308
4762.08 of the Revised Code. 1309

This section does not prohibit a chiropractor from using any 1310
of the titles listed in division (C) of section 4734.15 of the 1311
Revised Code. 1312

Sec. 4734.286. (A) A chiropractor who holds a certificate to 1313
practice acupuncture issued under this chapter who intends not to 1314
practice acupuncture in this state for an extended period of time 1315
may send to the state chiropractic board written notice to that 1316
effect on or before the certificate renewal date. If the 1317
chiropractor's certificate is in good standing and the 1318
chiropractor is not under disciplinary review pursuant to section 1319
4734.31 of the Revised Code, the board shall classify the 1320
certificate as inactive and the chiropractor may not engage in the 1321
practice of acupuncture in this state or make any representation 1322
to the public indicating that the chiropractor is actively 1323
certified to practice acupuncture under this chapter. A 1324
chiropractor whose certificate to practice acupuncture is 1325
classified as inactive is not required to pay the certificate 1326
renewal fee for the certificate. 1327

(B) The holder of an inactive certificate to practice 1328
acupuncture may apply to the board to have the certificate 1329
restored. The board shall consider the length of inactivity and, 1330
in accordance with the conditions for issuance of a license to 1331
practice chiropractic established under section 4734.20 of the 1332
Revised Code and the requirements for issuance of a certificate to 1333
practice acupuncture established under section 4734.282 of the 1334
Revised Code, the moral character and the activities of the 1335
applicant during the inactive period. The board may impose terms 1336
and conditions on restoration of the certificate by doing any of 1337
the following: 1338

(1) Requiring the applicant to obtain training, which may 1339
include requiring the applicant to pass an examination on 1340

completion of the training; 1341

(2) Requiring the applicant to pass an oral or written 1342
examination, or both, to determine fitness to resume practice; 1343

(3) Restricting or limiting the extent, scope, or type of 1344
practice of the applicant. 1345

Sec. 4734.31. (A) The state chiropractic board may take any 1346
of the actions specified in division (B) of this section against 1347
an individual who has applied for or holds a license to practice 1348
chiropractic in this state if any of the reasons specified in 1349
division (C) of this section for taking action against an 1350
individual are applicable. Except as provided in division (D) of 1351
this section, actions taken against an individual shall be taken 1352
in accordance with Chapter 119. of the Revised Code. The board may 1353
specify that any action it takes is a permanent action. The 1354
board's authority to take action against an individual is not 1355
removed or limited by the individual's failure to renew a license. 1356

(B) In its imposition of sanctions against an individual, the 1357
board may do any of the following: 1358

(1) Refuse to issue, renew, restore, or reinstate a license 1359
to practice chiropractic or a certificate to practice acupuncture; 1360

(2) Reprimand or censure a license holder; 1361

(3) Place limits, restrictions, or probationary conditions on 1362
a license holder's practice; 1363

(4) Impose a civil fine of not more than five thousand 1364
dollars according to a schedule of fines specified in rules that 1365
the board shall adopt in accordance with ~~chapter~~ Chapter 119. of 1366
the Revised Code. 1367

(5) Suspend a license to practice chiropractic or a 1368
certificate to practice acupuncture for a limited or indefinite 1369
period; 1370

(6) Revoke a license to practice chiropractic or a 1371
certificate to practice acupuncture. 1372

(C) The board may take the actions specified in division (B) 1373
of this section for any of the following reasons: 1374

(1) A plea of guilty to, a judicial finding of guilt of, or a 1375
judicial finding of eligibility for intervention in lieu of 1376
conviction for, a felony in any jurisdiction, in which case a 1377
certified copy of the court record shall be conclusive evidence of 1378
the conviction; 1379

(2) Commission of an act that constitutes a felony in this 1380
state, regardless of the jurisdiction in which the act was 1381
committed; 1382

(3) A plea of guilty to, a judicial finding of guilt of, or a 1383
judicial finding of eligibility for intervention in lieu of 1384
conviction for, a misdemeanor involving moral turpitude, as 1385
determined by the board, in which case a certified copy of the 1386
court record shall be conclusive evidence of the matter; 1387

(4) Commission of an act involving moral turpitude that 1388
constitutes a misdemeanor in this state, regardless of the 1389
jurisdiction in which the act was committed; 1390

(5) A plea of guilty to, a judicial finding of guilt of, or a 1391
judicial finding of eligibility for intervention in lieu of 1392
conviction for, a misdemeanor committed in the course of practice, 1393
in which case a certified copy of the court record shall be 1394
conclusive evidence of the matter; 1395

(6) Commission of an act in the course of practice that 1396
constitutes a misdemeanor in this state, regardless of the 1397
jurisdiction in which the act was committed; 1398

(7) A violation or attempted violation of this chapter or the 1399
rules adopted under it governing the practice of chiropractic and 1400

the practice of acupuncture by a chiropractor licensed under this 1401
chapter; 1402

(8) Failure to cooperate in an investigation conducted by the 1403
board, including failure to comply with a subpoena or order issued 1404
by the board or failure to answer truthfully a question presented 1405
by the board at a deposition or in written interrogatories, except 1406
that failure to cooperate with an investigation shall not 1407
constitute grounds for discipline under this section if the board 1408
or a court of competent jurisdiction has issued an order that 1409
either quashes a subpoena or permits the individual to withhold 1410
the testimony or evidence in issue; 1411

(9) Engaging in an ongoing professional relationship with a 1412
person or entity that violates any provision of this chapter or 1413
the rules adopted under it, unless the chiropractor makes a good 1414
faith effort to have the person or entity comply with the 1415
provisions; 1416

(10) Retaliating against a chiropractor for the 1417
chiropractor's reporting to the board or any other agency with 1418
jurisdiction any violation of the law or for cooperating with the 1419
board of another agency in the investigation of any violation of 1420
the law; 1421

(11) Aiding, abetting, assisting, counseling, or conspiring 1422
with any person in that person's violation of any provision of 1423
this chapter or the rules adopted under it, including the practice 1424
of chiropractic without a license, the practice of acupuncture 1425
without a certificate, or aiding, abetting, assisting, counseling, 1426
or conspiring with any person in that person's unlicensed practice 1427
of any other health care profession that has licensing 1428
requirements; 1429

(12) With respect to a report or record that is made, filed, 1430
or signed in connection with the practice of chiropractic or 1431

acupuncture, knowingly making or filing a report or record that is 1432
false, intentionally or negligently failing to file a report or 1433
record required by federal, state, or local law or willfully 1434
impeding or obstructing the required filing, or inducing another 1435
person to engage in any such acts; 1436

(13) Making a false, fraudulent, or deceitful statement to 1437
the board or any agent of the board during any investigation or 1438
other official proceeding conducted by the board under this 1439
chapter or in any filing that must be submitted to the board; 1440

(14) Attempting to secure a license to practice chiropractic 1441
or certificate to practice acupuncture or to corrupt the outcome 1442
of an official board proceeding through bribery or any other 1443
improper means; 1444

(15) Willfully obstructing or hindering the board or any 1445
agent of the board in the discharge of the board's duties; 1446

(16) Habitually using drugs or intoxicants to the extent that 1447
the person is rendered unfit for the practice of chiropractic or 1448
acupuncture; 1449

(17) Inability to practice chiropractic or acupuncture 1450
according to acceptable and prevailing standards of care by reason 1451
of chemical dependency, mental illness, or physical illness, 1452
including conditions in which physical deterioration has adversely 1453
affected the person's cognitive, motor, or perceptive skills and 1454
conditions in which a chiropractor's continued practice may pose a 1455
danger to the chiropractor or the public; 1456

(18) Any act constituting gross immorality relative to the 1457
person's practice of chiropractic or acupuncture, including acts 1458
involving sexual abuse, sexual misconduct, or sexual exploitation; 1459

(19) Exploiting a patient for personal or financial gain; 1460

(20) Failing to maintain proper, accurate, and legible 1461

records in the English language documenting each patient's care, 1462
including, as appropriate, records of the following: dates of 1463
treatment, services rendered, examinations, tests, x-ray reports, 1464
referrals, and the diagnosis or clinical impression and clinical 1465
treatment plan provided to the patient; 1466

(21) Except as otherwise required by the board or by law, 1467
disclosing patient information gained during the chiropractor's 1468
professional relationship with a patient without obtaining the 1469
patient's authorization for the disclosure; 1470

(22) Commission of willful or gross malpractice, or willful 1471
or gross neglect, in the practice of chiropractic or acupuncture; 1472

(23) Failing to perform or negligently performing an act 1473
recognized by the board as a general duty or the exercise of due 1474
care in the practice of chiropractic or acupuncture, regardless of 1475
whether injury results to a patient from the failure to perform or 1476
negligent performance of the act; 1477

(24) Engaging in any conduct or practice that impairs or may 1478
impair the ability to practice chiropractic or acupuncture safely 1479
and skillfully; 1480

(25) Practicing, or claiming to be capable of practicing, 1481
beyond the scope of the practice of chiropractic or acupuncture as 1482
established under this chapter and the rules adopted under this 1483
chapter; 1484

(26) Accepting and performing professional responsibilities 1485
as a chiropractor or chiropractor with a certificate to practice 1486
acupuncture when not qualified to perform those responsibilities, 1487
if the person knew or had reason to know that the person was not 1488
qualified to perform them; 1489

(27) Delegating any of the professional responsibilities of a 1490
chiropractor or chiropractor with a certificate to practice 1491
acupuncture to an employee or other individual when the delegating 1492

chiropractor knows or had reason to know that the employee or 1493
other individual is not qualified by training, experience, or 1494
professional licensure to perform the responsibilities; 1495

(28) Delegating any of the professional responsibilities of a 1496
chiropractor or chiropractor with a certificate to practice 1497
acupuncture to an employee or other individual in a negligent 1498
manner or failing to provide proper supervision of the employee or 1499
other individual to whom the responsibilities are delegated; 1500

(29) Failing to refer a patient to another health care 1501
practitioner for consultation or treatment when the chiropractor 1502
knows or has reason to know that the referral is in the best 1503
interest of the patient; 1504

(30) Obtaining or attempting to obtain any fee or other 1505
advantage by fraud or misrepresentation; 1506

(31) Making misleading, deceptive, false, or fraudulent 1507
representations in the practice of chiropractic or acupuncture; 1508

(32) Being guilty of false, fraudulent, deceptive, or 1509
misleading advertising or other solicitations for patients or 1510
knowingly having professional connection with any person that 1511
advertises or solicits for patients in such a manner; 1512

(33) Violation of a provision of any code of ethics 1513
established or adopted by the board under section 4734.16 of the 1514
Revised Code; 1515

(34) Failing to meet the examination requirements for receipt 1516
of a license specified under section 4734.20 of the Revised Code; 1517

(35) Actions taken for any reason, other than nonpayment of 1518
fees, by the chiropractic or acupuncture licensing authority of 1519
another state or country; 1520

(36) Failing to maintain clean and sanitary conditions at the 1521
clinic, office, or other place in which chiropractic services or 1522

acupuncture services are provided; 1523

(37) Except as provided in division (G) of this section: 1524

(a) Waiving the payment of all or any part of a deductible or 1525
copayment that a patient, pursuant to a health insurance or health 1526
care policy, contract, or plan that covers the chiropractor's 1527
services, otherwise would be required to pay if the waiver is used 1528
as an enticement to a patient or group of patients to receive 1529
health care services from that chiropractor; 1530

(b) Advertising that the chiropractor will waive the payment 1531
of all or any part of a deductible or copayment that a patient, 1532
pursuant to a health insurance or health care policy, contract, or 1533
plan that covers the chiropractor's services, otherwise would be 1534
required to pay. 1535

(38) Failure to supervise an acupuncturist in accordance with 1536
the provisions of section 4762.11 of the Revised Code that are 1537
applicable to the supervising chiropractor of an acupuncturist. 1538

(D) The adjudication requirements of Chapter 119. of the 1539
Revised Code apply to the board when taking actions against an 1540
individual under this section, except as follows: 1541

(1) An applicant is not entitled to an adjudication for 1542
failing to meet the conditions specified under section 4734.20 of 1543
the Revised Code for receipt of a license that involve the board's 1544
examination on jurisprudence or the examinations of the national 1545
board of chiropractic examiners. 1546

(2) A person is not entitled to an adjudication if the person 1547
fails to make a timely request for a hearing, in accordance with 1548
Chapter 119. of the Revised Code. 1549

(3) In lieu of an adjudication, the board may accept the 1550
surrender of a license to practice chiropractic or certificate to 1551
practice acupuncture from a chiropractor. 1552

(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 1585
copayments shall be made only with the full knowledge and consent 1586
of the plan purchaser, payer, and third-party administrator. 1587
Documentation of the consent shall be made available to the board 1588
upon request. 1589

(2) For professional services rendered to any other person 1590
licensed pursuant to this chapter, to the extent allowed by this 1591
chapter and the rules of the board. 1592

Sec. 4734.311. On receipt of a notice pursuant to section 1593
3123.43 of the Revised Code, the state chiropractic board shall 1594
comply with sections 3123.41 to 3123.50 of the Revised Code and 1595
any applicable rules adopted under section 3123.63 of the Revised 1596
Code with respect to a license to practice chiropractic or 1597
certificate to practice acupuncture issued pursuant to this 1598
chapter. 1599

Sec. 4734.34. An individual subject to an action taken under 1600
section 4734.31 of the Revised Code, other than permanent 1601
revocation of a license to practice chiropractic or certificate to 1602
practice acupuncture, may apply to the state chiropractic board to 1603
have the individual's license or certificate restored to good 1604
standing. The board shall consider the moral character and the 1605
activities of the applicant since the board's action was taken, in 1606
accordance with the standards for issuance of a license, as 1607
established under section 4734.20 of the Revised Code, or the 1608
standards for issuance of a certificate to practice acupuncture, 1609
as established under section 4734.282 of the Revised Code. The 1610
board may impose terms and conditions on restoration of the 1611
license or certificate by doing any of the following: 1612

(A) Requiring the applicant to obtain training, which may 1613
include requiring the applicant to pass an examination upon 1614

completion of the training; 1615

(B) Requiring the applicant to pass an oral or written 1616
examination, or both, to determine fitness to resume practice; 1617

(C) Restricting or limiting the extent, scope, or type of 1618
practice of the applicant. 1619

Sec. 4734.36. A chiropractor who in this state pleads guilty 1620
to or is convicted of aggravated murder, murder, voluntary 1621
manslaughter, felonious assault, kidnapping, rape, sexual battery, 1622
gross sexual imposition, aggravated arson, aggravated robbery, or 1623
aggravated burglary, or who in another jurisdiction pleads guilty 1624
to or is convicted of any substantially equivalent criminal 1625
offense, is automatically suspended from practice in this state 1626
and the license issued under this chapter to practice chiropractic 1627
is automatically suspended as of the date of the guilty plea or 1628
conviction. If applicable, the chiropractor's certificate issued 1629
under this chapter to practice acupuncture is automatically 1630
suspended at the same time. Continued practice after suspension 1631
under this section shall be considered practicing chiropractic 1632
without a license and, if applicable, acupuncture without a 1633
certificate. On receiving notice or otherwise becoming aware of 1634
the conviction, the state chiropractic board shall notify the 1635
individual of the suspension under this section by certified mail 1636
or in person in accordance with section 119.07 of the Revised 1637
Code. If an individual whose license and, if applicable, 1638
certificate to practice acupuncture is suspended under this 1639
section fails to make a timely request for an adjudication, the 1640
board shall enter a final order revoking the individual's license 1641
and, if applicable, certificate to practice acupuncture. 1642

Sec. 4734.37. If the state chiropractic board determines that 1643
there is clear and convincing evidence that a person who has been 1644

granted a license to practice chiropractic and, if applicable, 1645
certificate to practice acupuncture under this chapter has 1646
committed an act that subjects the person's license and, if 1647
applicable, certificate to board action under section 4734.31 of 1648
the Revised Code and that the person's continued practice presents 1649
a danger of immediate and serious harm to the public, the board 1650
may suspend the license and, if applicable, certificate without a 1651
prior hearing. A telephone conference call may be utilized for 1652
reviewing the matter and taking the vote. 1653

The board shall issue a written order of suspension by 1654
certified mail or in person in accordance with section 119.07 of 1655
the Revised Code. The order is not subject to suspension by the 1656
court during pendency of any appeal filed under section 119.12 of 1657
the Revised Code. If the person subject to the suspension requests 1658
an adjudication by the board, the date set for the adjudication 1659
shall be within twenty days, but not earlier than seven days, 1660
after the request, unless otherwise agreed to by both the board 1661
and the person subject to the suspension. 1662

Any summary suspension imposed under this section shall 1663
remain in effect, unless reversed on appeal, until a final 1664
adjudicative order issued by the board pursuant to section 4734.31 1665
and Chapter 119. of the Revised Code becomes effective. The board 1666
shall issue its final adjudicative order within sixty days after 1667
completion of its adjudication. A failure to issue the order 1668
within sixty days shall result in dissolution of the summary 1669
suspension order but shall not invalidate any subsequent, final 1670
adjudicative order. 1671

Sec. 4734.38. If any person who has been granted a license to 1672
practice chiropractic and, if applicable, certificate to practice 1673
acupuncture under this chapter is adjudged by a probate court to 1674
be mentally ill or mentally incompetent, the person's license and, 1675

if applicable, certificate shall be automatically suspended until 1676
the person has filed with the state chiropractic board a certified 1677
copy of an adjudication by a probate court of being restored to 1678
competency or has submitted to the board proof, satisfactory to 1679
the board, of having been discharged as being restored to 1680
competency in the manner and form provided in section 5122.38 of 1681
the Revised Code. The judge of the court shall forthwith notify 1682
the board of an adjudication of mental illness or mental 1683
incompetence. 1684

Sec. 4734.39. (A) For purposes of the state chiropractic 1685
board's enforcement of division (C)(16) or (17) of section 4734.31 1686
of the Revised Code, an individual who applies for or receives a 1687
license to practice chiropractic or certificate to practice 1688
acupuncture under this chapter accepts the privilege of practicing 1689
chiropractic and, if applicable, acupuncture in this state and, by 1690
so doing, shall be deemed to have given consent to submit to a 1691
mental or physical examination when directed to do so in writing 1692
by the board in its enforcement of those divisions, and to have 1693
waived all objections to the admissibility of testimony or 1694
examination reports that constitute a privileged communication. 1695

(B) If the board has reason to believe that a chiropractor or 1696
applicant suffers an impairment described in division (C)(16) or 1697
(17) of section 4734.31 of the Revised Code, the board may compel 1698
the individual to submit to a mental or physical examination, or 1699
both. The expense of the examination is the responsibility of the 1700
individual compelled to be examined. Any mental or physical 1701
examination required under this section shall be undertaken by a 1702
provider who is qualified to conduct the examination and who is 1703
chosen by the board. 1704

Failure to submit to a mental or physical examination ordered 1705
by the board constitutes an admission of the allegations against 1706

the individual unless the failure is due to circumstances beyond 1707
the individual's control. A default and final order may be entered 1708
without the taking of testimony or presentation of evidence. 1709

If the board determines that an individual's ability to 1710
practice is impaired, the board shall suspend the individual's 1711
license to practice chiropractic and, if applicable, certificate 1712
to practice acupuncture or deny the individual's application and 1713
shall require the individual, as a condition for initial, 1714
continued, reinstated, restored, or renewed certification to 1715
practice, to submit to care, counseling, or treatment. 1716

(C) Before being eligible to apply for reinstatement of a 1717
license or certificate suspended under division (C)(16) of section 1718
4734.31 of the Revised Code or the chemical dependency provisions 1719
of division (C)(17) of section 4731.34 of the Revised Code, the 1720
impaired individual shall demonstrate to the board the ability to 1721
resume practice in compliance with acceptable and prevailing 1722
standards of care in the practice of chiropractic and, if 1723
applicable, acupuncture under this chapter. If rules have been 1724
adopted under section 4734.40 of the Revised Code, the 1725
demonstration shall include, but shall not be limited to, the 1726
following: 1727

(1) Certification from a treatment provider approved under 1728
section 4734.40 of the Revised Code that the individual has 1729
successfully completed any required inpatient treatment; 1730

(2) Evidence of continuing full compliance with an aftercare 1731
contract or consent agreement; 1732

(3) Two written reports indicating that the individual's 1733
ability to practice has been assessed and that the individual has 1734
been found capable of practicing according to acceptable and 1735
prevailing standards of care. The reports shall be made by 1736
individuals or providers approved by the board for making the 1737

assessments and shall describe the basis for their determination. 1738

The board may reinstate a license and, if applicable, 1739
certificate suspended under this division after that demonstration 1740
and after the individual has entered into a written consent 1741
agreement. 1742

When the impaired individual resumes practice, the board 1743
shall require continued monitoring of the individual. The 1744
monitoring shall include, but not be limited to, compliance with 1745
the written consent agreement entered into before reinstatement or 1746
with conditions imposed by board order after a hearing, and, upon 1747
termination of the consent agreement, submission to the board for 1748
at least two years of annual written progress reports made under 1749
penalty of perjury stating whether the individual has maintained 1750
sobriety. 1751

Sec. 4734.47. (A) The executive director of the state 1752
chiropractic board shall function as the chief enforcement officer 1753
of the board and shall enforce the laws relating to the practice 1754
of chiropractic and acupuncture under this chapter. If the 1755
executive director has knowledge or notice of a violation of those 1756
laws, the executive director shall investigate the matter or cause 1757
the matter to be investigated. On probable cause appearing, the 1758
executive director shall prosecute the offender or cause the 1759
offender to be prosecuted. If the matter involves a violation by 1760
an individual licensed under this chapter, the executive director 1761
shall bring the matter before the board. If the matter involves a 1762
violation for which a penalty may be imposed under section 4734.99 1763
of the Revised Code, the executive director or a person authorized 1764
by the board to represent the executive director may file a 1765
complaint with the prosecuting attorney of the proper county. 1766
Except as provided in division (B) of this section, the 1767
prosecuting attorney shall take charge of and conduct the 1768

prosecution. 1769

(B) For purposes of enforcing this chapter, the board may 1770
petition a court of record to appoint an attorney to assist the 1771
prosecuting attorney in the prosecution of offenders or to take 1772
charge of and conduct the prosecutions as a special prosecutor. 1773
The court shall grant the petition if it is in the public 1774
interest. A special prosecutor appointed by the court shall be 1775
compensated by the board in an amount approved by the board. 1776

If the court believes that public knowledge of the 1777
appointment of a special prosecutor could allow one or more 1778
persons to interfere with the prosecution or any investigation 1779
related to the prosecution, the court may seal all documents 1780
pertaining to the appointment. Sealed documents shall remain 1781
sealed until there is court action on the prosecution or until the 1782
court orders the documents to be opened. 1783

Sec. 4734.49. (A) The attorney general, the prosecuting 1784
attorney of the county in which a violation of this chapter is 1785
committed or is threatened to be committed or in which the 1786
offender resides, the state chiropractic board, or any other 1787
person having knowledge of a person committing or threatening to 1788
commit a violation of this chapter may, in accordance with the 1789
provisions of the Revised Code governing injunctions, maintain an 1790
action in the name of this state to enjoin the person from 1791
committing the violation by applying for an injunction in any 1792
court of competent jurisdiction. Upon the filing of a verified 1793
petition in court, the court shall conduct a hearing on the 1794
petition and shall give the same preference to this proceeding as 1795
is given all proceedings under Chapter 119. of the Revised Code, 1796
irrespective of the position of the proceeding on the calendar of 1797
the court. If the court grants a final or permanent injunction 1798
that is a final appealable order, the court may award to the 1799

person or entity that maintained the action an amount not 1800
exceeding five thousand dollars to cover reasonable attorney's 1801
fees, investigative costs, and other costs related to the 1802
investigation or prosecution of the case. Injunction proceedings 1803
brought under this section shall be in addition to, and not in 1804
lieu of, all penalties and other remedies provided in this 1805
chapter. 1806

(B)(1) The practice of chiropractic by any person not at that 1807
time holding a valid and current license issued under this chapter 1808
is hereby declared to be inimical to the public welfare and to 1809
constitute a public nuisance. 1810

(2) Except for the practice of acupuncture by persons 1811
described in section 4762.02 of the Revised Code and persons who 1812
hold certificates issued under section 4762.04 of the Revised 1813
Code, the practice of acupuncture by any person not at that time 1814
holding a valid and current certificate to practice acupuncture 1815
issued under this chapter is hereby declared to be inimical to the 1816
public welfare and to constitute a public nuisance. 1817

Sec. 4734.50. This chapter does not require the state 1818
chiropractic board to act on minor violations of this chapter or 1819
the rules adopted under it, if the violations are committed by 1820
individuals licensed to practice chiropractic or certified to 1821
practice acupuncture under this chapter and the board determines 1822
that the public interest is adequately served by issuing a notice 1823
or warning to the alleged offender. 1824

Sec. 4734.55. The state chiropractic board shall provide a 1825
duplicate license to practice chiropractic or certificate to 1826
practice acupuncture to a license or certificate holder on payment 1827
of a fee of forty-five dollars. 1828

Upon written request and the payment of a fee of ninety-five 1829

dollars, the board shall provide to any person a list of persons 1830
holding licenses to practice chiropractic or certificates to 1831
practice acupuncture, as indicated in its register maintained 1832
pursuant to section 4734.04 of the Revised Code. 1833

Upon written request from the licensee holder of a license or 1834
certificate issued under this chapter for the board's 1835
certification of information pertaining to the license or 1836
certificate, and the payment of a fee of twenty dollars, the board 1837
shall issue its certification of licensure the information to the 1838
person identified by the licensee or certificate holder in the 1839
request. 1840

Sec. 4734.99. (A) Whoever violates section 4734.14 or 1841
4734.141 of the Revised Code is guilty of a felony of the fifth 1842
degree on a first offense, unless the offender previously has been 1843
convicted of or has pleaded guilty to a violation of section 1844
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.40, 1845
2913.47, 2913.48, 2913.51, 2921.13, 4715.09, 4723.03, 4725.02, 1846
4725.41, 4729.27, 4729.28, 4729.36, 4729.51, 4729.61, 4730.02, 1847
4731.41, 4731.43, 4731.46, 4731.47, 4731.60, 4732.21, 4741.18, 1848
4741.19, 4755.48, 4757.02, 4759.02, 4761.10, or 4773.02 of the 1849
Revised Code or an offense under an existing or former law of this 1850
state, another state, or the United States that is or was 1851
substantially equivalent to a violation of any of those sections, 1852
in which case the offender is guilty of a felony of the fourth 1853
degree. For each subsequent offense, the offender is guilty of a 1854
felony of the fourth degree. 1855

(B) Whoever violates section 4734.161 of the Revised Code is 1856
guilty of a misdemeanor of the first degree. 1857

(C) Whoever violates division (A), (B), (C), or (D) of 1858
section 4734.32 of the Revised Code is guilty of a minor 1859
misdemeanor on a first offense; on each subsequent offense, the 1860

person is guilty of a misdemeanor of the fourth degree, except 1861
that an individual guilty of a subsequent offense shall not be 1862
subject to imprisonment, but to a fine alone of up to one thousand 1863
dollars for each offense. 1864

Sec. 4755.471. (A) An individual whom the physical therapy 1865
section of the Ohio occupational therapy, physical therapy, and 1866
athletic trainers board licenses, certificates, or otherwise 1867
legally authorizes to engage in the practice of physical therapy 1868
may render the professional services of a physical therapist 1869
within this state through a corporation formed under division (B) 1870
of section 1701.03 of the Revised Code, a limited liability 1871
company formed under Chapter 1705. of the Revised Code, a 1872
partnership, or a professional association formed under Chapter 1873
1785. of the Revised Code. This division does not preclude an 1874
individual of that nature from rendering professional services as 1875
a physical therapist through another form of business entity, 1876
including, but not limited to, a nonprofit corporation or 1877
foundation, or in another manner that is authorized by or in 1878
accordance with sections 4755.40 to 4755.53 of the Revised Code, 1879
another chapter of the Revised Code, or rules of the Ohio 1880
occupational therapy, physical therapy, and athletic trainers 1881
board adopted pursuant to sections 4755.40 to 4755.53 of the 1882
Revised Code. 1883

(B) A corporation, limited liability company, partnership, or 1884
professional association described in division (A) of this section 1885
may be formed for the purpose of providing a combination of the 1886
professional services of the following individuals who are 1887
licensed, certificated, or otherwise legally authorized to 1888
practice their respective professions: 1889

(1) Optometrists who are authorized to practice optometry 1890
under Chapter 4725. of the Revised Code; 1891

(2) Chiropractors who are authorized to practice chiropractic	1892
<u>or acupuncture</u> under Chapter 4734. of the Revised Code;	1893
(3) Psychologists who are authorized to practice psychology	1894
under Chapter 4732. of the Revised Code;	1895
(4) Registered or licensed practical nurses who are	1896
authorized to practice nursing as registered nurses or as licensed	1897
practical nurses under Chapter 4723. of the Revised Code;	1898
(5) Pharmacists who are authorized to practice pharmacy under	1899
Chapter 4729. of the Revised Code;	1900
(6) Physical therapists who are authorized to practice	1901
physical therapy under sections 4755.40 to 4755.53 <u>4755.56</u> of the	1902
Revised Code;	1903
(7) Mechanotherapists who are authorized to practice	1904
mechanotherapy under section 4731.151 of the Revised Code;	1905
(8) Doctors of medicine and surgery, osteopathic medicine and	1906
surgery, or podiatric medicine and surgery who are authorized for	1907
their respective practices under Chapter 4731. of the Revised	1908
Code.	1909
This division shall apply notwithstanding a provision of a	1910
code of ethics applicable to a physical therapist that prohibits a	1911
physical therapist from engaging in the practice of physical	1912
therapy in combination with a person who is licensed,	1913
certificated, or otherwise legally authorized to practice	1914
optometry, chiropractic, <u>acupuncture through the state</u>	1915
<u>chiropractic board</u> , psychology, nursing, pharmacy, mechanotherapy,	1916
medicine and surgery, osteopathic medicine and surgery, or	1917
podiatric medicine and surgery, but who is not also licensed,	1918
certificated, or otherwise legally authorized to engage in the	1919
practice of physical therapy.	1920
Sec. 4762.01. As used in this chapter:	1921

(A) "Acupuncture" means a form of health care performed by 1922
the insertion and removal of specialized needles, with or without 1923
the application of moxibustion or electrical stimulation, to 1924
specific areas of the human body. 1925

(B) "Chiropractor" means an individual licensed under Chapter 1926
4734. of the Revised Code to engage in the practice of 1927
chiropractic. 1928

(C) "Moxibustion" means the use of an herbal heat source on 1929
one or more acupuncture points. 1930

~~(C)~~ (D) "Physician" means an individual authorized under 1931
Chapter 4731. of the Revised Code to practice medicine and 1932
surgery, osteopathic medicine and surgery, or podiatry. 1933

Sec. 4762.02. (A) Except as provided in division (B) of this 1934
section, no person shall engage in the practice of acupuncture 1935
unless the person holds a valid certificate of registration as an 1936
acupuncturist issued by the state medical board under this 1937
chapter. 1938

(B) Division (A) of this section does not apply to ~~a~~ the 1939
following: 1940

(1) A physician ~~or to a~~; 1941

(2) A person who performs acupuncture as part of a training 1942
program in acupuncture operated by an educational institution that 1943
holds an effective certificate of authorization issued by the Ohio 1944
board of regents under section 1713.02 of the Revised Code or a 1945
school that holds an effective certificate of registration issued 1946
by the state board of career colleges and schools under section 1947
3332.05 of the Revised Code; 1948

(3) A chiropractor who holds a certificate to practice 1949
acupuncture issued by the state chiropractic board under section 1950
4734.283 of the Revised Code. 1951

Sec. 4762.09. An acupuncturist who holds a certificate of 1952
registration issued under this chapter shall conspicuously display 1953
at the acupuncturist's primary place of business both of the 1954
following: 1955

(A) ~~A The acupuncturist's~~ certificate of registration ~~issued~~ 1956
~~by the state medical board under this chapter,~~ as evidence that 1957
the acupuncturist is authorized to practice acupuncture in this 1958
state; 1959

(B) A notice specifying that the practice of acupuncture 1960
under the certificate of registration is regulated by the state 1961
medical board and the address and telephone number of the board's 1962
office. 1963

Sec. 4762.10. All of the following apply to the practice of a 1964
person who holds a certificate of registration as an acupuncturist 1965
issued under this chapter: 1966

(A) The acupuncturist shall perform acupuncture for a patient 1967
only if the patient has received a ~~physician's~~ written referral or 1968
prescription for acupuncture from a physician or chiropractor. As 1969
specified in the referral or prescription, the acupuncturist shall 1970
provide reports to the physician or chiropractor on the patient's 1971
condition or progress in treatment and comply with the conditions 1972
or restrictions on the acupuncturist's course of treatment. 1973

(B) The acupuncturist shall perform acupuncture under the 1974
general supervision of the patient's referring or prescribing 1975
physician or chiropractor. General supervision does not require 1976
that the acupuncturist and physician or chiropractor practice in 1977
the same office. 1978

(C) Prior to treating a patient, the acupuncturist shall 1979
advise the patient that acupuncture is not a substitute for 1980
conventional medical diagnosis and treatment. 1981

(D) On initially meeting a patient in person, the 1982
acupuncturist shall provide in writing the acupuncturist's name, 1983
business address, and business telephone number, and information 1984
on acupuncture, including the techniques that are used. 1985

(E) While treating a patient, the acupuncturist shall not 1986
make a diagnosis. If a patient's condition is not improving or a 1987
patient requires emergency medical treatment, the acupuncturist 1988
shall consult promptly with ~~the supervising~~ a physician. 1989

(F) An acupuncturist shall maintain records for each patient 1990
treated. In each patient's records, the acupuncturist shall 1991
include the written referral or prescription pursuant to which the 1992
acupuncturist is treating the patient. The records shall be 1993
confidential and shall be retained for not less than three years 1994
following termination of treatment. 1995

Sec. 4762.11. All of the following apply to an 1996
acupuncturist's supervising physician or chiropractor for a 1997
patient: 1998

(A) Before making the referral or prescription for 1999
acupuncture, the physician shall perform a medical diagnostic 2000
examination of the patient or review the results of a medical 2001
diagnostic examination recently performed by another physician, 2002
or, in the case of a chiropractor, the chiropractor shall perform 2003
a chiropractic diagnostic examination of the patient or review the 2004
results of a chiropractic diagnostic examination recently 2005
performed by another chiropractor. 2006

(B) The physician or chiropractor shall make the referral or 2007
prescription in writing and specify in the referral or 2008
prescription all of the following: 2009

(1) The physician's or chiropractor's diagnosis of the 2010
ailment or condition that is to be treated by acupuncture; 2011

(2) A time by which or the intervals at which the 2012
acupuncturist must provide reports to the physician or 2013
chiropractor regarding the patient's condition or progress in 2014
treatment; 2015

(3) The conditions or restrictions placed in accordance with 2016
division (C) of this section on the acupuncturist's course of 2017
treatment. 2018

(C) The physician shall place conditions or restrictions on 2019
the acupuncturist's course of treatment in compliance with 2020
accepted or prevailing standards of medical care, or, in the case 2021
of a chiropractor, the chiropractor shall place conditions or 2022
restrictions on the acupuncturist's course of treatment in 2023
compliance with accepted or prevailing standards of chiropractic 2024
care. 2025

(D) The physician or chiropractor shall be personally 2026
available for consultation with the acupuncturist. If the 2027
physician or chiropractor is not on the premises at which 2028
acupuncture is performed, the physician or chiropractor shall be 2029
readily available to the acupuncturist through some means of 2030
telecommunication and be in a location that under normal 2031
circumstances is not more than sixty minutes travel time away from 2032
the location where the acupuncturist is practicing. 2033

Sec. 4762.12. In the case of a patient with a claim under 2034
Chapter 4121. or 4123. of the Revised Code, an acupuncturist's 2035
supervising physician or chiropractor is eligible to be reimbursed 2036
for referring the patient to an acupuncturist or prescribing 2037
acupuncture for the patient only if the physician or chiropractor 2038
has attained knowledge in the treatment of patients with 2039
acupuncture, demonstrated by successful completion of a course of 2040
study in acupuncture administered by a college of medicine, 2041
osteopathic medicine, ~~or~~ podiatric medicine, or chiropractic 2042

acceptable to the bureau of workers' compensation or administered 2043
by another entity acceptable to the bureau. 2044

Sec. 4762.18. The (A) Subject to division (E) of this 2045
section, the attorney general, the prosecuting attorney of any 2046
county in which the offense was committed or the offender resides, 2047
the state medical board, or any other person having knowledge of a 2048
person engaged either directly or by complicity in the practice of 2049
acupuncture without having first obtained a certificate of 2050
registration to do so pursuant to this chapter, may, in accord 2051
with provisions of the Revised Code governing injunctions, 2052
maintain an action in the name of the state to enjoin any person 2053
from engaging either directly or by complicity in the unlawful 2054
practice of acupuncture by applying for an injunction in any court 2055
of competent jurisdiction. 2056

(B) Prior to application for an injunction under division (A) 2057
of this section, the secretary of the state medical board shall 2058
notify the person allegedly engaged either directly or by 2059
complicity in the unlawful practice of acupuncture by registered 2060
mail that the secretary has received information indicating that 2061
this person is so engaged. The person shall answer the secretary 2062
within thirty days showing that the person is either properly 2063
licensed for the stated activity or that the person is not in 2064
violation of this chapter. If the answer is not forthcoming within 2065
thirty days after notice by the secretary, the secretary shall 2066
request that the attorney general, the prosecuting attorney of the 2067
county in which the offense was committed or the offender resides, 2068
or the state medical board proceed as authorized in this section. 2069

(C) Upon the filing of a verified petition in court, the 2070
court shall conduct a hearing on the petition and shall give the 2071
same preference to this proceeding as is given all proceedings 2072
under Chapter 119. of the Revised Code, irrespective of the 2073

position of the proceeding on the calendar of the court. 2074

(D) Injunction proceedings as authorized by this section 2075
shall be in addition to, and not in lieu of, all penalties and 2076
other remedies provided in this chapter. 2077

(E) An injunction proceeding permitted by division (A) of 2078
this section may not be maintained against a person described in 2079
division (B) of section 4762.02 of the Revised Code or a 2080
chiropractor who holds a valid certificate to practice acupuncture 2081
issued under section 4734.283 of the Revised Code. 2082

Section 2. That existing sections 1701.03, 1705.03, 1705.04, 2083
1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 2084
3715.872, 3715.873, 4723.16, 4725.33, 4729.161, 4731.226, 4731.23, 2085
4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 2086
4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 2087
4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 2088
4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 of the 2089
Revised Code are hereby repealed. 2090

Section 3. Section 1785.01 of the Revised Code is presented 2091
in this act as a composite of the section as amended by both Sub. 2092
H.B. 606 and Sub. H.B. 698 of the 122nd General Assembly. Section 2093
4725.33 of the Revised Code is presented in this act as a 2094
composite of the section as amended by both Am. Sub. H.B. 553 and 2095
Sub. H.B. 698 of the 122nd General Assembly. Section 4734.311 of 2096
the Revised Code is presented in this act as a composite of the 2097
section as amended by both Sub. H.B. 506 and Am. Sub. S.B. 180 of 2098
the 123rd General Assembly. The General Assembly, applying the 2099
principle stated in division (B) of section 1.52 of the Revised 2100
Code that amendments are to be harmonized if reasonably capable of 2101
simultaneous operation, finds that the composites are the 2102
resulting version of the sections in effect prior to the effective 2103
date of the sections as presented in this act. 2104