

As Passed by the Senate

127th General Assembly

Regular Session

2007-2008

Sub. S. B. No. 33

Senator Schuring

**Cosponsors: Senators Gardner, Clancy, Padgett, Mumper, Spada, Schaffer,
Fedor, Cafaro, Miller, D., Morano, Buehrer, Schuler, Wilson, J.**

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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 organization, a limited liability company may take property of any description or any interest in property of any description by gift, devise, or bequest and may make donations for the public welfare or for charitable, scientific, or educational purposes.

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

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

(2) Make contracts;

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

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

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

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

therapists authorized under sections 4755.04 to 4755.13 of the 146
Revised Code, mechanotherapists authorized under section 4731.151 147
of the Revised Code, and doctors of medicine and surgery, 148
osteopathic medicine and surgery, or podiatric medicine and 149
surgery authorized under Chapter 4731. of the Revised Code; 150

(7) Borrow money; 151

(8) Issue, sell, and pledge its notes, bonds, and other 152
evidences of indebtedness; 153

(9) Secure any of its obligations by mortgage, pledge, or 154
deed of trust of all or any of its property; 155

(10) Guarantee or secure obligations of any person; 156

(11) Do all things permitted by law and exercise all 157
authority within or incidental to the purposes stated in its 158
articles of organization. 159

(D) In addition to the authority conferred by division (C) of 160
this section and irrespective of the purposes stated in its 161
articles of organization or operating agreement but subject to any 162
limitations stated in those articles or its operating agreement, a 163
limited liability company may invest funds not currently needed in 164
its business in any securities if the investment does not cause 165
the company to acquire control of another enterprise whose 166
activities and operations are not incidental to the purposes 167
stated in the articles of organization of the company. 168

(E)(1) No lack of authority or limitation upon the authority 169
of a limited liability company shall be asserted in any action 170
except as follows: 171

(a) By the state in an action by it against the company; 172

(b) By or on behalf of the company in an action against a 173
manager, an officer, or any member as a member; 174

(c) By a member as a member in an action against the company, 175

a manager, an officer, or any member as a member; 176

(d) In an action involving an alleged improper issue of a 177
membership interest in the company. 178

(2) Division (E)(1) of this section applies to any action 179
commenced in this state upon any contract made in this state by a 180
foreign limited liability company. 181

Sec. 1705.04. (A) One or more persons, without regard to 182
residence, domicile, or state of organization, may form a limited 183
liability company. The articles of organization shall be signed 184
and filed with the secretary of state and shall set forth all of 185
the following: 186

(1) The name of the company; 187

(2) Except as provided in division (B) of this section, the 188
period of its duration, which may be perpetual; 189

(3) Any other provisions that are from the operating 190
agreement or that are not inconsistent with applicable law and 191
that the members elect to set out in the articles for the 192
regulation of the affairs of the company. 193

The legal existence of the company begins upon the filing of 194
the articles of organization or on a later date specified in the 195
articles of organization that is not more than ninety days after 196
the filing. 197

(B) If the articles of organization or operating agreement do 198
not set forth the period of the duration of the limited liability 199
company, its duration shall be perpetual. 200

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

Revised Code, chiropractors authorized under Chapter 4734. of the 206
Revised Code to practice chiropractic or acupuncture, 207
psychologists authorized under Chapter 4732. of the Revised Code, 208
registered or licensed practical nurses authorized under Chapter 209
4723. of the Revised Code, pharmacists authorized under Chapter 210
4729. of the Revised Code, physical therapists authorized under 211
sections 4755.40 to 4755.56 of the Revised Code, occupational 212
therapists authorized under sections 4755.04 to 4755.13 of the 213
Revised Code, mechanotherapists authorized under section 4731.151 214
of the Revised Code, and doctors of medicine and surgery, 215
osteopathic medicine and surgery, or podiatric medicine and 216
surgery authorized under Chapter 4731. of the Revised Code, the 217
following apply: 218

(1) Each member, employee, or other agent of the company who 219
renders a professional service in this state and, if the 220
management of the company is not reserved to its members, each 221
manager of the company who renders a professional service in this 222
state shall be licensed, certificated, or otherwise legally 223
authorized to render in this state the same kind of professional 224
service; if applicable, the kinds of professional services 225
authorized under Chapters 4703. and 4733. of the Revised Code; or, 226
if applicable, any of the kinds of professional services of 227
optometrists authorized under Chapter 4725. of the Revised Code, 228
chiropractors authorized under Chapter 4734. of the Revised Code 229
to practice chiropractic or acupuncture, psychologists authorized 230
under Chapter 4732. of the Revised Code, registered or licensed 231
practical nurses authorized under Chapter 4723. of the Revised 232
Code, pharmacists authorized under Chapter 4729. of the Revised 233
Code, physical therapists authorized under sections 4755.40 to 234
~~4755.53~~ 4755.56 of the Revised Code, occupational therapists 235
authorized under sections 4755.04 to 4755.13 of the Revised Code, 236
mechanotherapists authorized under section 4731.151 of the Revised 237
Code, or doctors of medicine and surgery, osteopathic medicine and 238

surgery, or podiatric medicine and surgery authorized under 239
Chapter 4731. of the Revised Code. 240

(2) Each member, employee, or other agent of the company who 241
renders a professional service in another state and, if the 242
management of the company is not reserved to its members, each 243
manager of the company who renders a professional service in 244
another state shall be licensed, certificated, or otherwise 245
legally authorized to render that professional service in the 246
other state. 247

(D) Except for the provisions of this chapter pertaining to 248
the personal liability of members, employees, or other agents of a 249
limited liability company and, if the management of the company is 250
not reserved to its members, the personal liability of managers of 251
the company, this chapter does not restrict, limit, or otherwise 252
affect the authority or responsibilities of any agency, board, 253
commission, department, office, or other entity to license, 254
certificate, register, and otherwise regulate the professional 255
conduct of individuals or organizations of any kind rendering 256
professional services in this state or to regulate the practice of 257
any profession that is within the jurisdiction of the agency, 258
board, commission, department, office, or other entity, 259
notwithstanding that the individual is a member or manager of a 260
limited liability company and is rendering the professional 261
services or engaging in the practice of the profession through the 262
limited liability company or that the organization is a limited 263
liability company. 264

(E) No limited liability company formed for the purpose of 265
providing a combination of the professional services, as defined 266
in section 1785.01 of the Revised Code, of optometrists authorized 267
under Chapter 4725. of the Revised Code, chiropractors authorized 268
under Chapter 4734. of the Revised Code to practice chiropractic 269
or acupuncture, psychologists authorized under Chapter 4732. of 270

the Revised Code, registered or licensed practical nurses 271
authorized under Chapter 4723. of the Revised Code, pharmacists 272
authorized under Chapter 4729. of the Revised Code, physical 273
therapists authorized under sections 4755.40 to 4755.56 of the 274
Revised Code, occupational therapists authorized under sections 275
4755.04 to 4755.13 of the Revised Code, mechanotherapists 276
authorized under section 4731.151 of the Revised Code, and doctors 277
of medicine and surgery, osteopathic medicine and surgery, or 278
podiatric medicine and surgery authorized under Chapter 4731. of 279
the Revised Code shall control the professional clinical judgment 280
exercised within accepted and prevailing standards of practice of 281
a licensed, certificated, or otherwise legally authorized 282
optometrist, chiropractor, chiropractor practicing acupuncture 283
through the state chiropractic board, psychologist, nurse, 284
pharmacist, physical therapist, occupational therapist, 285
mechanotherapist, or doctor of medicine and surgery, osteopathic 286
medicine and surgery, or podiatric medicine and surgery in 287
rendering care, treatment, or professional advice to an individual 288
patient. 289

This division does not prevent a hospital, as defined in 290
section 3727.01 of the Revised Code, insurer, as defined in 291
section 3999.36 of the Revised Code, or intermediary organization, 292
as defined in section 1751.01 of the Revised Code, from entering 293
into a contract with a limited liability company described in this 294
division that includes a provision requiring utilization review, 295
quality assurance, peer review, or other performance or quality 296
standards. Those activities shall not be construed as controlling 297
the professional clinical judgment of an individual practitioner 298
listed in this division. 299

Sec. 1705.53. Subject to any contrary provisions of the Ohio 300
Constitution, the laws of the state under which a foreign limited 301
liability company is organized govern its organization and 302

internal affairs and the liability of its members. A foreign 303
limited liability company may not be denied a certificate of 304
registration as a foreign limited liability company in this state 305
because of any difference between the laws of the state under 306
which it is organized and the laws of this state. However, a 307
foreign limited liability company that applies for registration 308
under this chapter to render a professional service in this state, 309
as a condition to obtaining and maintaining a certificate of 310
registration, shall comply with the requirements of division (C) 311
of section 1705.04 of the Revised Code and shall comply with the 312
requirements of Chapters 4703. and 4733. of the Revised Code if 313
the kinds of professional services authorized under those chapters 314
are to be rendered or with the requirements of Chapters 4723., 315
4725., 4729., 4731., 4732., 4734., and 4755. of the Revised Code 316
if a combination of the professional services of optometrists 317
authorized under Chapter 4725. of the Revised Code, chiropractors 318
authorized under Chapter 4734. of the Revised Code to practice 319
chiropractic or acupuncture, psychologists authorized under 320
Chapter 4732. of the Revised Code, registered or licensed 321
practical nurses authorized under Chapter 4723. of the Revised 322
Code, pharmacists authorized under Chapter 4729. of the Revised 323
Code, physical therapists authorized under sections 4755.40 to 324
4755.56 of the Revised Code, occupational therapists authorized 325
under sections 4755.04 to 4755.13 of the Revised Code, 326
mechanotherapists authorized under section 4731.151 of the Revised 327
Code, and doctors of medicine and surgery, osteopathic medicine 328
and surgery, or podiatric medicine and surgery authorized under 329
Chapter 4731. of the Revised Code are to be rendered. 330

Sec. 1785.01. As used in this chapter: 331

(A) "Professional service" means any type of professional 332
service that may be performed only pursuant to a license, 333
certificate, or other legal authorization issued pursuant to 334

Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 335
4731., 4732., 4733., 4734., or 4741., sections 4755.04 to 4755.13, 336
or 4755.40 to 4755.56 of the Revised Code to certified public 337
accountants, licensed public accountants, architects, attorneys, 338
dentists, nurses, optometrists, pharmacists, physician assistants, 339
doctors of medicine and surgery, doctors of osteopathic medicine 340
and surgery, doctors of podiatric medicine and surgery, 341
practitioners of the limited branches of medicine specified in 342
section 4731.15 of the Revised Code, mechanotherapists, 343
psychologists, professional engineers, chiropractors, 344
chiropractors practicing acupuncture through the state 345
chiropractic board, veterinarians, occupational therapists, 346
physical therapists, and occupational therapists. 347

(B) "Professional association" means an association organized 348
under this chapter for the sole purpose of rendering one of the 349
professional services authorized under Chapter 4701., 4703., 350
4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 351
4734., or 4741., sections 4755.04 to 4755.13, or 4755.40 to 352
4755.56 of the Revised Code, a combination of the professional 353
services authorized under Chapters 4703. and 4733. of the Revised 354
Code, or a combination of the professional services of 355
optometrists authorized under Chapter 4725. of the Revised Code, 356
chiropractors authorized under Chapter 4734. of the Revised Code 357
to practice chiropractic or acupuncture, psychologists authorized 358
under Chapter 4732. of the Revised Code, registered or licensed 359
practical nurses authorized under Chapter 4723. of the Revised 360
Code, pharmacists authorized under Chapter 4729. of the Revised 361
Code, physical therapists authorized under sections 4755.40 to 362
4755.56 of the Revised Code, occupational therapists authorized 363
under sections 4755.04 to 4755.13 of the Revised Code, 364
mechanotherapists authorized under section 4731.151 of the Revised 365
Code, and doctors of medicine and surgery, osteopathic medicine 366
and surgery, or podiatric medicine and surgery authorized under 367

Chapter 4731. of the Revised Code. 368

Sec. 1785.02. An individual or group of individuals each of 369
whom is licensed, certificated, or otherwise legally authorized to 370
render within this state the same kind of professional service, a 371
group of individuals each of whom is licensed, certificated, or 372
otherwise legally authorized to render within this state the 373
professional service authorized under Chapter 4703. or 4733. of 374
the Revised Code, or a group of individuals each of whom is 375
licensed, certificated, or otherwise legally authorized to render 376
within this state the professional service of optometrists 377
authorized under Chapter 4725. of the Revised Code, chiropractors 378
authorized under Chapter 4734. of the Revised Code to practice 379
chiropractic or acupuncture, psychologists authorized under 380
Chapter 4732. of the Revised Code, registered or licensed 381
practical nurses authorized under Chapter 4723. of the Revised 382
Code, pharmacists authorized under Chapter 4729. of the Revised 383
Code, physical therapists authorized under sections 4755.40 to 384
4755.56 of the Revised Code, occupational therapists authorized 385
under sections 4755.04 to 4755.13 of the Revised Code, 386
mechanotherapists authorized under section 4731.151 of the Revised 387
Code, or doctors of medicine and surgery, osteopathic medicine and 388
surgery, or podiatric medicine and surgery authorized under 389
Chapter 4731. of the Revised Code may organize and become a 390
shareholder or shareholders of a professional association. Any 391
group of individuals described in this section who may be 392
rendering one of the professional services as an organization 393
created otherwise than pursuant to this chapter may incorporate 394
under and pursuant to this chapter by amending the agreement 395
establishing the organization in a manner that the agreement as 396
amended constitutes articles of incorporation prepared and filed 397
in the manner prescribed in section 1785.08 of the Revised Code 398
and by otherwise complying with the applicable requirements of 399

this chapter. 400

Sec. 1785.03. A professional association may render a 401
particular professional service only through officers, employees, 402
and agents who are themselves duly licensed, certificated, or 403
otherwise legally authorized to render the professional service 404
within this state. As used in this section, "employee" does not 405
include clerks, bookkeepers, technicians, or other individuals who 406
are not usually and ordinarily considered by custom and practice 407
to be rendering a particular professional service for which a 408
license, certificate, or other legal authorization is required and 409
does not include any other person who performs all of that 410
person's employment under the direct supervision and control of an 411
officer, agent, or employee who renders a particular professional 412
service to the public on behalf of the professional association. 413

No professional association formed for the purpose of 414
providing a combination of the professional services, as defined 415
in section 1785.01 of the Revised Code, of optometrists authorized 416
under Chapter 4725. of the Revised Code, chiropractors authorized 417
under Chapter 4734. of the Revised Code to practice chiropractic 418
or acupuncture, psychologists authorized under Chapter 4732. of 419
the Revised Code, registered or licensed practical nurses 420
authorized under Chapter 4723. of the Revised Code, pharmacists 421
authorized under Chapter 4729. of the Revised Code, physical 422
therapists authorized under sections 4755.40 to 4755.56 of the 423
Revised Code, occupational therapists authorized under sections 424
4755.04 to 4755.13 of the Revised Code, mechanotherapists 425
authorized under section 4731.151 of the Revised Code, and doctors 426
of medicine and surgery, osteopathic medicine and surgery, or 427
podiatric medicine and surgery authorized under Chapter 4731. of 428
the Revised Code shall control the professional clinical judgment 429
exercised within accepted and prevailing standards of practice of 430
a licensed, certificated, or otherwise legally authorized 431

optometrist, chiropractor, chiropractor practicing acupuncture 432
through the state chiropractic board, psychologist, nurse, 433
pharmacist, physical therapist, occupational therapist, 434
mechanotherapist, or doctor of medicine and surgery, osteopathic 435
medicine and surgery, or podiatric medicine and surgery in 436
rendering care, treatment, or professional advice to an individual 437
patient. 438

This division does not prevent a hospital, as defined in 439
section 3727.01 of the Revised Code, insurer, as defined in 440
section 3999.36 of the Revised Code, or intermediary organization, 441
as defined in section 1751.01 of the Revised Code, from entering 442
into a contract with a professional association described in this 443
division that includes a provision requiring utilization review, 444
quality assurance, peer review, or other performance or quality 445
standards. Those activities shall not be construed as controlling 446
the professional clinical judgment of an individual practitioner 447
listed in this division. 448

Sec. 1785.08. Chapter 1701. of the Revised Code applies to 449
professional associations, including their organization and the 450
manner of filing articles of incorporation, except that the 451
requirements of division (A) of section 1701.06 of the Revised 452
Code do not apply to professional associations. If any provision 453
of this chapter conflicts with any provision of Chapter 1701. of 454
the Revised Code, the provisions of this chapter shall take 455
precedence. A professional association for the practice of 456
medicine and surgery, osteopathic medicine and surgery, or 457
podiatric medicine and surgery or for the combined practice of 458
optometry, chiropractic, acupuncture through the state 459
chiropractic board, psychology, nursing, pharmacy, physical 460
therapy, mechanotherapy, medicine and surgery, osteopathic 461
medicine and surgery, or podiatric medicine and surgery may 462
provide in its articles of incorporation or bylaws that its 463

directors may have terms of office not exceeding six years. 464

Sec. 3715.87. (A) As used in this section and in sections 465
3715.871, 3715.872, and 3715.873 of the Revised Code: 466

(1) "Health care facility" has the same meaning as in section 467
1337.11 of the Revised Code. 468

(2) "Hospital" has the same meaning as in section 3727.01 of 469
the Revised Code. 470

~~(2)~~(3) "Nonprofit clinic" means a charitable nonprofit 471
corporation organized and operated pursuant to Chapter 1702. of 472
the Revised Code, or any charitable organization not organized and 473
not operated for profit, that provides health care services to 474
indigent and uninsured persons as defined in section 2305.234 of 475
the Revised Code. "Nonprofit clinic" does not include a hospital 476
as defined in section 3727.01 of the Revised Code, a facility 477
licensed under Chapter 3721. of the Revised Code, or a facility 478
that is operated for profit. 479

~~(3)~~(4) "Prescription drug" means any drug to which the 480
following applies: 481

(a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 482
(1938), 21 U.S.C.A. 301, as amended, the drug is required to bear 483
a label containing the legend, "Caution: Federal law prohibits 484
dispensing without prescription" or "Caution: Federal law 485
restricts this drug to use by or on the order of a licensed 486
veterinarian" or any similar restrictive statement, or the drug 487
may be dispensed only upon a prescription. 488

(b) Under Chapter 3715. or 3719. of the Revised Code, the 489
drug may be dispensed only upon a prescription. 490

(B) The state board of pharmacy shall establish a drug 491
repository program to accept and dispense prescription drugs 492
donated or given for the purpose of being dispensed to individuals 493

who are residents of this state and meet eligibility standards 494
established in rules adopted by the board under section 3715.873 495
of the Revised Code. Only drugs in their original sealed and 496
tamper-evident unit dose packaging may be accepted and dispensed. 497
The packaging must be unopened, except that drugs packaged in 498
single unit doses may be accepted and dispensed when the outside 499
packaging is opened if the single unit dose packaging is 500
undisturbed. Drugs donated by individuals bearing an expiration 501
date that is less than six months from the date the drug is 502
donated shall not be accepted or dispensed. A drug shall not be 503
accepted or dispensed if there is reason to believe that it is 504
adulterated as described in section 3715.63 of the Revised Code. 505
Subject to the ~~limitation~~ limitations specified in this division, 506
unused drugs dispensed for purposes of the medicaid program may be 507
accepted and dispensed under the drug repository program. 508

Sec. 3715.871. (A) Any person, including a pharmacy, drug 509
manufacturer, or ~~any~~ health care facility ~~as defined in section~~ 510
~~1337.11 of the Revised Code~~, or any government entity may donate 511
or give prescription drugs to the drug repository program. The 512
drugs must be donated or given at a pharmacy, hospital, or 513
nonprofit clinic that elects to participate in the drug repository 514
program and meets criteria for participation in the program 515
established in rules adopted by the state board of pharmacy under 516
section 3715.873 of the Revised Code. Participation in the program 517
by pharmacies, hospitals, and nonprofit clinics is voluntary. 518
Nothing in this or any other section of the Revised Code requires 519
a pharmacy, hospital, or nonprofit clinic to participate in the 520
program. 521

(B) A pharmacy, hospital, or nonprofit clinic eligible to 522
participate in the program shall dispense drugs donated or given 523
under this section to individuals who are residents of this state 524
and meet the eligibility standards established in rules adopted by 525

the board under section 3715.873 of the Revised Code or to other 526
government entities and nonprofit private entities to be dispensed 527
to individuals who meet the eligibility standards. A drug may be 528
dispensed only pursuant to a prescription issued by a licensed 529
health professional authorized to prescribe drugs, as defined in 530
section 4729.01 of the Revised Code. A pharmacy, hospital, or 531
nonprofit clinic that accepts donated or given drugs shall comply 532
with all applicable federal laws and laws of this state dealing 533
with storage and distribution of dangerous drugs and shall inspect 534
all drugs prior to dispensing them to determine that they are not 535
adulterated. The pharmacy, hospital, or nonprofit clinic may 536
charge individuals receiving donated or given drugs a handling fee 537
established in accordance with rules adopted by the board under 538
section 3715.873 of the Revised Code. Drugs donated or given to 539
the repository may not be resold. 540

Sec. 3715.872. (A) As used in this section, "health care 541
professional" means any of the following who provide medical, 542
dental, or other health-related diagnosis, care, or treatment: 543

(1) Individuals authorized under Chapter 4731. of the Revised 544
Code to practice medicine and surgery, osteopathic medicine and 545
surgery, or podiatric medicine and surgery; 546

(2) Registered nurses and licensed practical nurses licensed 547
under Chapter 4723. of the Revised Code; 548

(3) Physician assistants authorized to practice under Chapter 549
4730. of the Revised Code; 550

(4) Dentists and dental hygienists licensed under Chapter 551
4715. of the Revised Code; 552

(5) Optometrists licensed under Chapter 4725. of the Revised 553
Code; 554

(6) Pharmacists licensed under Chapter 4729. of the Revised 555

Code. 556

(B) ~~The state board of pharmacy; the director of health; any~~ 557
~~For matters related to donating, giving, accepting, or dispensing~~ 558
~~drugs under the drug repository program, all of the following~~ 559
~~apply:~~ 560

(1) ~~Any person, including a pharmacy, drug manufacturer, or~~ 561
~~health care facility, or any government entity that donates or~~ 562
~~gives drugs to the drug repository program; any pharmacy,~~ 563
~~hospital, nonprofit clinic, or health care professional that~~ 564
~~accepts or dispenses drugs under the program; and any pharmacy,~~ 565
~~hospital, or nonprofit clinic that employs a health care~~ 566
~~professional who accepts or dispenses drugs under the program~~ 567
~~shall not, in the absence of bad faith, be subject to any of the~~ 568
~~following for matters related to donating, accepting, or~~ 569
~~dispensing drugs under the program: criminal prosecution;~~ 570
~~liability in tort or other civil action for injury, death, or loss~~ 571
~~to person or property; or professional disciplinary action.~~ 572

~~A (2) A pharmacy, hospital, or nonprofit clinic that accepts~~ 573
~~or dispenses drugs under the program shall not be subject to~~ 574
~~liability in tort or other civil action for injury, death, or loss~~ 575
~~to person or property, unless an action or omission of the~~ 576
~~pharmacy, hospital, or nonprofit clinic constitutes willful and~~ 577
~~wanton misconduct.~~ 578

(3) ~~A health care professional who accepts or dispenses drugs~~ 579
~~under the program on behalf of a pharmacy, hospital, or nonprofit~~ 580
~~clinic, and the pharmacy, hospital, or nonprofit clinic that~~ 581
~~employs or otherwise uses the services of the health care~~ 582
~~professional, shall not be subject to liability in tort or other~~ 583
~~civil action for injury, death, or loss to person or property,~~ 584
~~unless an action or omission of the health care professional,~~ 585
~~pharmacy, hospital, or nonprofit clinic constitutes willful and~~ 586
~~wanton misconduct.~~ 587

(4) The state board of pharmacy and the director of health 588
shall not be subject to liability in tort or other civil action 589
for injury, death, or loss to person or property, unless an action 590
or omission of the board or director constitutes willful and 591
wanton misconduct. 592

(C) In addition to the immunity granted under division (B)(1) 593
of this section, any person, including a pharmacy, drug 594
manufacturer, or health care facility, and any government entity 595
that donates or gives drugs to the program shall not be subject to 596
criminal prosecution for the donation, giving, acceptance, or 597
dispensing of drugs under the program, unless an action or 598
omission of the person or government entity does not comply with 599
the provisions of this chapter or the rules adopted under it. 600

(D) In the case of a drug manufacturer shall not, in the 601
absence of bad faith, be subject to criminal prosecution or 602
liability in tort or other civil action for injury, death, or loss 603
to person or property for matters related to the donation, 604
acceptance, or dispensing of a, the immunities granted under 605
divisions (B)(1) and (C) of this section apply with respect to any 606
drug manufactured by the drug manufacturer that is donated or 607
given by any person or government entity under the program, 608
including but not limited to liability for failure to transfer or 609
communicate product or consumer information or the expiration date 610
of the ~~donated~~ drug donated or given. 611

Sec. 3715.873. In consultation with the director of health, 612
the state board of pharmacy shall adopt rules governing the drug 613
repository program that establish all of the following: 614

(A) Eligibility criteria for pharmacies, hospitals, and 615
nonprofit clinics to receive and dispense ~~donated~~ drugs donated or 616
given under the program; 617

(B) Standards and procedures for accepting, safely storing, 618

and dispensing ~~donated~~ drugs donated or given; 619

(C) Standards and procedures for inspecting ~~donated~~ drugs 620
donated or given to determine that the original unit dose 621
packaging is sealed and tamper-evident and that the drugs are 622
unadulterated, safe, and suitable for dispensing; 623

(D) Eligibility standards based on economic need for 624
individuals to receive drugs; 625

(E) A means, such as an identification card, by which an 626
individual who is eligible to receive ~~donated~~ drugs under the 627
program may demonstrate eligibility to the pharmacy, hospital, or 628
nonprofit clinic dispensing the drugs; 629

(F) A form that an individual receiving a drug ~~from~~ under the 630
~~repository~~ program must sign before receiving the drug to confirm 631
that the individual understands the immunity provisions of the 632
program; 633

(G) A formula to determine the amount of a handling fee that 634
pharmacies, hospitals, and nonprofit clinics may charge to drug 635
recipients to cover restocking and dispensing costs; 636

(H) In addition, for drugs donated or given to the ~~repository~~ 637
program by individuals: 638

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

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

(3) A form each donor must sign stating that the donor is the 646
owner of the drugs and intends to voluntarily donate them to the 647
~~repository~~ program. 648

(I) In addition, for drugs donated to the ~~repository~~ program 649
by health care facilities: 650

(1) A list of drugs, arranged either by category or by 651
individual drug, that the ~~repository~~ program will accept from 652
health care facilities; 653

(2) A list of drugs, arranged either by category or by 654
individual drug, that the ~~repository~~ program will not accept from 655
health care facilities. The list must include a statement as to 656
why the drug is ineligible ~~for donation~~ to be donated or given. 657

(J) Any other standards and procedures the board considers 658
appropriate. 659

The rules shall be adopted in accordance with Chapter 119. of 660
the Revised Code. 661

Sec. 4723.16. (A) An individual whom the board of nursing 662
licenses, certificates, or otherwise legally authorizes to engage 663
in the practice of nursing as a registered nurse or as a licensed 664
practical nurse may render the professional services of a 665
registered or licensed practical nurse within this state through a 666
corporation formed under division (B) of section 1701.03 of the 667
Revised Code, a limited liability company formed under Chapter 668
1705. of the Revised Code, a partnership, or a professional 669
association formed under Chapter 1785. of the Revised Code. This 670
division does not preclude an individual of that nature from 671
rendering professional services as a registered or licensed 672
practical nurse through another form of business entity, 673
including, but not limited to, a nonprofit corporation or 674
foundation, or in another manner that is authorized by or in 675
accordance with this chapter, another chapter of the Revised Code, 676
or rules of the board of nursing adopted pursuant to this chapter. 677

(B) A corporation, limited liability company, partnership, or 678

professional association described in division (A) of this section 679
may be formed for the purpose of providing a combination of the 680
professional services of the following individuals who are 681
licensed, certificated, or otherwise legally authorized to 682
practice their respective professions: 683

(1) Optometrists who are authorized to practice optometry 684
under Chapter 4725. of the Revised Code; 685

(2) Chiropractors who are authorized to practice chiropractic 686
or acupuncture under Chapter 4734. of the Revised Code; 687

(3) Psychologists who are authorized to practice psychology 688
under Chapter 4732. of the Revised Code; 689

(4) Registered or licensed practical nurses who are 690
authorized to practice nursing as registered nurses or as licensed 691
practical nurses under this chapter; 692

(5) Pharmacists who are authorized to practice pharmacy under 693
Chapter 4729. of the Revised Code; 694

(6) Physical therapists who are authorized to practice 695
physical therapy under sections 4755.40 to 4755.56 of the Revised 696
Code; 697

(7) Occupational therapists who are licensed to practice 698
occupational therapy under sections 4755.04 to 4755.13 of the 699
Revised Code; 700

(8) Mechanotherapists who are authorized to practice 701
mechanotherapy under section 4731.151 of the Revised Code; 702

(9) Doctors of medicine and surgery, osteopathic medicine and 703
surgery, or podiatric medicine and surgery who are licensed, 704
certificated, or otherwise legally authorized for their respective 705
practices under Chapter 4731. of the Revised Code. 706

This division shall apply notwithstanding a provision of a 707
code of ethics applicable to a nurse that prohibits a registered 708

or licensed practical nurse from engaging in the practice of 709
nursing as a registered nurse or as a licensed practical nurse in 710
combination with a person who is licensed, certificated, or 711
otherwise legally authorized to practice optometry, chiropractic, 712
acupuncture through the state chiropractic board, psychology, 713
pharmacy, physical therapy, occupational therapy, mechanotherapy, 714
medicine and surgery, osteopathic medicine and surgery, or 715
podiatric medicine and surgery, but who is not also licensed, 716
certificated, or otherwise legally authorized to engage in the 717
practice of nursing as a registered nurse or as a licensed 718
practical nurse. 719

Sec. 4725.33. (A) An individual whom the state board of 720
optometry licenses to engage in the practice of optometry may 721
render the professional services of an optometrist within this 722
state through a corporation formed under division (B) of section 723
1701.03 of the Revised Code, a limited liability company formed 724
under Chapter 1705. of the Revised Code, a partnership, or a 725
professional association formed under Chapter 1785. of the Revised 726
Code. This division does not preclude an optometrist from 727
rendering professional services as an optometrist through another 728
form of business entity, including, but not limited to, a 729
nonprofit corporation or foundation, or in another manner that is 730
authorized by or in accordance with this chapter, another chapter 731
of the Revised Code, or rules of the state board of optometry 732
adopted pursuant to this chapter. 733

(B) A corporation, limited liability company, partnership, or 734
professional association described in division (A) of this section 735
may be formed for the purpose of providing a combination of the 736
professional services of the following individuals who are 737
licensed, certificated, or otherwise legally authorized to 738
practice their respective professions: 739

(1) Optometrists who are authorized to practice optometry	740
under Chapter 4725. of the Revised Code;	741
(2) Chiropractors who are authorized to practice chiropractic	742
<u>or acupuncture</u> under Chapter 4734. of the Revised Code;	743
(3) Psychologists who are authorized to practice psychology	744
under Chapter 4732. of the Revised Code;	745
(4) Registered or licensed practical nurses who are	746
authorized to practice nursing as registered nurses or as licensed	747
practical nurses under Chapter 4723. of the Revised Code;	748
(5) Pharmacists who are authorized to practice pharmacy under	749
Chapter 4729. of the Revised Code;	750
(6) Physical therapists who are authorized to practice	751
physical therapy under sections 4755.40 to 4755.56 of the Revised	752
Code;	753
(7) Mechanotherapists who are authorized to practice	754
mechanotherapy under section 4731.151 of the Revised Code;	755
(8) Doctors of medicine and surgery, osteopathic medicine and	756
surgery, or podiatric medicine and surgery who are authorized for	757
their respective practices under Chapter 4731. of the Revised	758
Code.	759
This division shall apply notwithstanding a provision of a	760
code of ethics applicable to an optometrist that prohibits an	761
optometrist from engaging in the practice of optometry in	762
combination with a person who is licensed, certificated, or	763
otherwise legally authorized to practice chiropractic, <u>acupuncture</u>	764
<u>through the state chiropractic board</u> , psychology, nursing,	765
pharmacy, physical therapy, mechanotherapy, medicine and surgery,	766
osteopathic medicine and surgery, or podiatric medicine and	767
surgery, but who is not also licensed, certificated, or otherwise	768
legally authorized to engage in the practice of optometry.	769

Sec. 4729.161. (A) An individual registered with the state 770
board of pharmacy to engage in the practice of pharmacy may render 771
the professional services of a pharmacist within this state 772
through a corporation formed under division (B) of section 1701.03 773
of the Revised Code, a limited liability company formed under 774
Chapter 1705. of the Revised Code, a partnership, or a 775
professional association formed under Chapter 1785. of the Revised 776
Code. This division does not preclude an individual of that nature 777
from rendering professional services as a pharmacist through 778
another form of business entity, including, but not limited to, a 779
nonprofit corporation or foundation, or in another manner that is 780
authorized by or in accordance with this chapter, another chapter 781
of the Revised Code, or rules of the state board of pharmacy 782
adopted pursuant to this chapter. 783

(B) A corporation, limited liability company, partnership, or 784
professional association described in division (A) of this section 785
may be formed for the purpose of providing a combination of the 786
professional services of the following individuals who are 787
licensed, certificated, or otherwise legally authorized to 788
practice their respective professions: 789

(1) Optometrists who are authorized to practice optometry 790
under Chapter 4725. of the Revised Code; 791

(2) Chiropractors who are authorized to practice chiropractic 792
or acupuncture under Chapter 4734. of the Revised Code; 793

(3) Psychologists who are authorized to practice psychology 794
under Chapter 4732. of the Revised Code; 795

(4) Registered or licensed practical nurses who are 796
authorized to practice nursing as registered nurses or as licensed 797
practical nurses under Chapter 4723. of the Revised Code; 798

(5) Pharmacists who are authorized to practice pharmacy under 799

Chapter 4729. of the Revised Code; 800

(6) Physical therapists who are authorized to practice 801
physical therapy under sections 4755.40 to 4755.56 of the Revised 802
Code; 803

(7) Occupational therapists who are authorized to practice 804
occupational therapy under sections 4755.04 to 4755.13 of the 805
Revised Code; 806

(8) Mechanotherapists who are authorized to practice 807
mechanotherapy under section 4731.151 of the Revised Code; 808

(9) Doctors of medicine and surgery, osteopathic medicine and 809
surgery, or podiatric medicine and surgery who are authorized for 810
their respective practices under Chapter 4731. of the Revised 811
Code. 812

This division shall apply notwithstanding a provision of a 813
code of ethics applicable to a pharmacist that prohibits a 814
pharmacist from engaging in the practice of pharmacy in 815
combination with a person who is licensed, certificated, or 816
otherwise legally authorized to practice optometry, chiropractic, 817
acupuncture through the state chiropractic board, psychology, 818
nursing, physical therapy, occupational therapy, mechanotherapy, 819
medicine and surgery, osteopathic medicine and surgery, or 820
podiatric medicine and surgery, but who is not also licensed, 821
certificated, or otherwise legally authorized to engage in the 822
practice of pharmacy. 823

Sec. 4731.226. (A)(1) An individual whom the state medical 824
board licenses, certificates, or otherwise legally authorizes to 825
engage in the practice of medicine and surgery, osteopathic 826
medicine and surgery, or podiatric medicine and surgery may render 827
the professional services of a doctor of medicine and surgery, 828
osteopathic medicine and surgery, or podiatric medicine and 829

surgery within this state through a corporation formed under 830
division (B) of section 1701.03 of the Revised Code, a limited 831
liability company formed under Chapter 1705. of the Revised Code, 832
a partnership, or a professional association formed under Chapter 833
1785. of the Revised Code. Division (A)(1) of this section does 834
not preclude an individual of that nature from rendering 835
professional services as a doctor of medicine and surgery, 836
osteopathic medicine and surgery, or podiatric medicine and 837
surgery through another form of business entity, including, but 838
not limited to, a nonprofit corporation or foundation, or in 839
another manner that is authorized by or in accordance with this 840
chapter, another chapter of the Revised Code, or rules of the 841
state medical board adopted pursuant to this chapter. 842

(2) An individual whom the state medical board authorizes to 843
engage in the practice of mechanotherapy may render the 844
professional services of a mechanotherapist within this state 845
through a corporation formed under division (B) of section 1701.03 846
of the Revised Code, a limited liability company formed under 847
Chapter 1705. of the Revised Code, a partnership, or a 848
professional association formed under Chapter 1785. of the Revised 849
Code. Division (A)(2) of this section does not preclude an 850
individual of that nature from rendering professional services as 851
a mechanotherapist through another form of business entity, 852
including, but not limited to, a nonprofit corporation or 853
foundation, or in another manner that is authorized by or in 854
accordance with this chapter, another chapter of the Revised Code, 855
or rules of the state medical board adopted pursuant to this 856
chapter. 857

(B) A corporation, limited liability company, partnership, or 858
professional association described in division (A) of this section 859
may be formed for the purpose of providing a combination of the 860
professional services of the following individuals who are 861

licensed, certificated, or otherwise legally authorized to	862
practice their respective professions:	863
(1) Optometrists who are authorized to practice optometry	864
under Chapter 4725. of the Revised Code;	865
(2) Chiropractors who are authorized to practice chiropractic	866
<u>or acupuncture</u> under Chapter 4734. of the Revised Code;	867
(3) Psychologists who are authorized to practice psychology	868
under Chapter 4732. of the Revised Code;	869
(4) Registered or licensed practical nurses who are	870
authorized to practice nursing as registered nurses or as licensed	871
practical nurses under Chapter 4723. of the Revised Code;	872
(5) Pharmacists who are authorized to practice pharmacy under	873
Chapter 4729. of the Revised Code;	874
(6) Physical therapists who are authorized to practice	875
physical therapy under sections 4755.40 to 4755.56 of the Revised	876
Code;	877
(7) Occupational therapists who are authorized to practice	878
occupational therapy under sections 4755.04 to 4755.13 of the	879
Revised Code;	880
(8) Mechanotherapists who are authorized to practice	881
mechanotherapy under section 4731.151 of the Revised Code;	882
(9) Doctors of medicine and surgery, osteopathic medicine and	883
surgery, or podiatric medicine and surgery who are authorized for	884
their respective practices under this chapter.	885
(C) Division (B) of this section shall apply notwithstanding	886
a provision of a code of ethics described in division (B)(18) of	887
section 4731.22 of the Revised Code that prohibits either of the	888
following:	889
(1) A doctor of medicine and surgery, osteopathic medicine	890
and surgery, or podiatric medicine and surgery from engaging in	891

the doctor's authorized practice in combination with a person who 892
is licensed, certificated, or otherwise legally authorized to 893
engage in the practice of optometry, chiropractic, acupuncture 894
through the state chiropractic board, psychology, nursing, 895
pharmacy, physical therapy, occupational therapy, or 896
mechanotherapy, but who is not also licensed, certificated, or 897
otherwise legally authorized to practice medicine and surgery, 898
osteopathic medicine and surgery, or podiatric medicine and 899
surgery. 900

(2) A mechanotherapist from engaging in the practice of 901
mechanotherapy in combination with a person who is licensed, 902
certificated, or otherwise legally authorized to engage in the 903
practice of optometry, chiropractic, acupuncture through the state 904
chiropractic board, psychology, nursing, pharmacy, physical 905
therapy, occupational therapy, medicine and surgery, osteopathic 906
medicine and surgery, or podiatric medicine and surgery, but who 907
is not also licensed, certificated, or otherwise legally 908
authorized to engage in the practice of mechanotherapy. 909

Sec. 4731.23. (A)(1)(a) The state medical board shall 910
designate ~~an attorney~~ one or more attorneys at law who ~~has~~ have 911
been admitted to the practice of law, and who ~~is~~ are classified as 912
either ~~an~~ administrative law attorney ~~examiner~~ examiners or as ~~an~~ 913
administrative law attorney examiner ~~administrator~~ administrators 914
under the state job classification plan adopted under section 915
124.14 of the Revised Code, as a hearing ~~examiner~~ examiners, 916
subject to Chapter 119. of the Revised Code, to conduct any 917
hearing which the medical board is empowered to hold or undertake 918
pursuant to Chapter 119. of the Revised Code. ~~Such~~ 919

(b) Notwithstanding the requirement of division (A)(1)(a) of 920
this section that the board designate as a hearing examiner an 921
attorney who is classified as either an administrative law 922

attorney examiner or an administrative law attorney examiner 923
administrator, the board may, subject to controlling board 924
approval, enter into a personal service contract with an attorney 925
admitted to the practice of law in this state to serve on a 926
temporary basis as a hearing examiner. 927

(2) The hearing examiner shall hear and consider the oral and 928
documented evidence introduced by the parties and issue in writing 929
proposed findings of fact and conclusions of law to the board for 930
their consideration within thirty days following the close of the 931
hearing. 932

(B) The board shall be given copies of the transcript of the 933
record hearing and all exhibits and documents presented by the 934
parties at the hearing. 935

(C) The board shall, upon the favorable vote of three 936
members, allow the parties or their counsel the opportunity to 937
present oral arguments on the proposed findings of fact and 938
conclusions of law of the hearing examiner prior to the board's 939
final action. 940

(D) The board shall render a decision and take action within 941
sixty days following the receipt of the hearing examiner's 942
proposed findings of fact and conclusions of law or within any 943
longer period mutually agreed upon by the board and the 944
certificate holder. 945

(E) The final decision of the board in any hearing which the 946
board is empowered to undertake shall be in writing and contain 947
findings of fact and conclusions of law. Copies of the decision 948
shall be delivered to the parties personally or by certified mail. 949
The decision shall be final upon delivery or mailing, except that 950
the certificate holder may appeal in the manner provided by 951
Chapter 119. of the Revised Code. 952

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the 953
Revised Code: 954

(A)(1) "Clinical laboratory services" means either of the 955
following: 956

(a) Any examination of materials derived from the human body 957
for the purpose of providing information for the diagnosis, 958
prevention, or treatment of any disease or impairment or for the 959
assessment of health; 960

(b) Procedures to determine, measure, or otherwise describe 961
the presence or absence of various substances or organisms in the 962
body. 963

(2) "Clinical laboratory services" does not include the mere 964
collection or preparation of specimens. 965

(B) "Designated health services" means any of the following: 966

(1) Clinical laboratory services; 967

(2) Home health care services; 968

(3) Outpatient prescription drugs. 969

(C) "Fair market value" means the value in arms-length 970
transactions, consistent with general market value and: 971

(1) With respect to rentals or leases, the value of rental 972
property for general commercial purposes, not taking into account 973
its intended use; 974

(2) With respect to a lease of space, not adjusted to reflect 975
the additional value the prospective lessee or lessor would 976
attribute to the proximity or convenience to the lessor if the 977
lessor is a potential source of referrals to the lessee. 978

(D) "Governmental health care program" means any program 979
providing health care benefits that is administered by the federal 980
government, this state, or a political subdivision of this state, 981

including the medicare program established under Title XVIII of 982
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 983
as amended, health care coverage for public employees, health care 984
benefits administered by the bureau of workers' compensation, the 985
medical assistance program established under Chapter 5111. of the 986
Revised Code, and the disability medical assistance program 987
established under Chapter 5115. of the Revised Code. 988

(E)(1) "Group practice" means a group of two or more holders 989
of certificates under this chapter legally organized as a 990
partnership, professional corporation or association, limited 991
liability company, foundation, nonprofit corporation, faculty 992
practice plan, or similar group practice entity, including an 993
organization comprised of a nonprofit medical clinic that 994
contracts with a professional corporation or association of 995
physicians to provide medical services exclusively to patients of 996
the clinic in order to comply with section 1701.03 of the Revised 997
Code and including a corporation, limited liability company, 998
partnership, or professional association described in division (B) 999
of section 4731.226 of the Revised Code formed for the purpose of 1000
providing a combination of the professional services of 1001
optometrists who are licensed, certificated, or otherwise legally 1002
authorized to practice optometry under Chapter 4725. of the 1003
Revised Code, chiropractors who are licensed, certificated, or 1004
otherwise legally authorized to practice chiropractic or 1005
acupuncture under Chapter 4734. of the Revised Code, psychologists 1006
who are licensed, certificated, or otherwise legally authorized to 1007
practice psychology under Chapter 4732. of the Revised Code, 1008
registered or licensed practical nurses who are licensed, 1009
certificated, or otherwise legally authorized to practice nursing 1010
under Chapter 4723. of the Revised Code, pharmacists who are 1011
licensed, certificated, or otherwise legally authorized to 1012
practice pharmacy under Chapter 4729. of the Revised Code, 1013
physical therapists who are licensed, certificated, or otherwise 1014

legally authorized to practice physical therapy under sections 1015
4755.40 to 4755.56 of the Revised Code, occupational therapists 1016
who are licensed, certificated, or otherwise legally authorized to 1017
practice occupational therapy under sections 4755.04 to 4755.13 of 1018
the Revised Code, mechanotherapists who are licensed, 1019
certificated, or otherwise legally authorized to practice 1020
mechanotherapy under section 4731.151 of the Revised Code, and 1021
doctors of medicine and surgery, osteopathic medicine and surgery, 1022
or podiatric medicine and surgery who are licensed, certificated, 1023
or otherwise legally authorized for their respective practices 1024
under this chapter, to which all of the following apply: 1025

(a) Each physician who is a member of the group practice 1026
provides substantially the full range of services that the 1027
physician routinely provides, including medical care, 1028
consultation, diagnosis, or treatment, through the joint use of 1029
shared office space, facilities, equipment, and personnel. 1030

(b) Substantially all of the services of the members of the 1031
group are provided through the group and are billed in the name of 1032
the group and amounts so received are treated as receipts of the 1033
group. 1034

(c) The overhead expenses of and the income from the practice 1035
are distributed in accordance with methods previously determined 1036
by members of the group. 1037

(d) The group practice meets any other requirements that the 1038
state medical board applies in rules adopted under section 4731.70 1039
of the Revised Code. 1040

(2) In the case of a faculty practice plan associated with a 1041
hospital with a medical residency training program in which 1042
physician members may provide a variety of specialty services and 1043
provide professional services both within and outside the group, 1044
as well as perform other tasks such as research, the criteria in 1045

division (E)(1) of this section apply only with respect to 1046
services rendered within the faculty practice plan. 1047

(F) "Home health care services" and "immediate family" have 1048
the same meanings as in the rules adopted under section 4731.70 of 1049
the Revised Code. 1050

(G) "Hospital" has the same meaning as in section 3727.01 of 1051
the Revised Code. 1052

(H) A "referral" includes both of the following: 1053

(1) A request by a holder of a certificate under this chapter 1054
for an item or service, including a request for a consultation 1055
with another physician and any test or procedure ordered by or to 1056
be performed by or under the supervision of the other physician; 1057

(2) A request for or establishment of a plan of care by a 1058
certificate holder that includes the provision of designated 1059
health services. 1060

(I) "Third-party payer" has the same meaning as in section 1061
3901.38 of the Revised Code. 1062

Sec. 4732.28. (A) An individual whom the state board of 1063
psychology licenses, certificates, or otherwise legally authorizes 1064
to engage in the practice of psychology may render the 1065
professional services of a psychologist within this state through 1066
a corporation formed under division (B) of section 1701.03 of the 1067
Revised Code, a limited liability company formed under Chapter 1068
1705. of the Revised Code, a partnership, or a professional 1069
association formed under Chapter 1785. of the Revised Code. This 1070
division does not preclude an individual of that nature from 1071
rendering professional services as a psychologist through another 1072
form of business entity, including, but not limited to, a 1073
nonprofit corporation or foundation, or in another manner that is 1074
authorized by or in accordance with this chapter, another chapter 1075

of the Revised Code, or rules of the state board of psychology 1076
adopted pursuant to this chapter. 1077

(B) A corporation, limited liability company, partnership, or 1078
professional association described in division (A) of this section 1079
may be formed for the purpose of providing a combination of the 1080
professional services of the following individuals who are 1081
licensed, certificated, or otherwise legally authorized to 1082
practice their respective professions: 1083

(1) Optometrists who are authorized to practice optometry 1084
under Chapter 4725. of the Revised Code; 1085

(2) Chiropractors who are authorized to practice chiropractic 1086
or acupuncture under Chapter 4734. of the Revised Code; 1087

(3) Psychologists who are authorized to practice psychology 1088
under this chapter; 1089

(4) Registered or licensed practical nurses who are 1090
authorized to practice nursing as registered nurses or as licensed 1091
practical nurses under Chapter 4723. of the Revised Code; 1092

(5) Pharmacists who are authorized to practice pharmacy under 1093
Chapter 4729. of the Revised Code; 1094

(6) Physical therapists who are authorized to practice 1095
physical therapy under sections 4755.40 to 4755.56 of the Revised 1096
Code; 1097

(7) Occupational therapists who are authorized to practice 1098
occupational therapy under sections 4755.04 to 4755.13 of the 1099
Revised Code; 1100

(8) Mechanotherapists who are authorized to practice 1101
mechanotherapy under section 4731.151 of the Revised Code; 1102

(9) Doctors of medicine and surgery, osteopathic medicine and 1103
surgery, or podiatric medicine and surgery who are authorized for 1104
their respective practices under Chapter 4731. of the Revised 1105

Code. 1106

This division shall apply notwithstanding a provision of a 1107
code of ethics applicable to a psychologist that prohibits a 1108
psychologist from engaging in the practice of psychology in 1109
combination with a person who is licensed, certificated, or 1110
otherwise legally authorized to practice optometry, chiropractic, 1111
acupuncture through the state chiropractic board, nursing, 1112
pharmacy, physical therapy, occupational therapy, mechanotherapy, 1113
medicine and surgery, osteopathic medicine and surgery, or 1114
podiatric medicine and surgery, but who is not also licensed, 1115
certificated, or otherwise legally authorized to engage in the 1116
practice of psychology. 1117

Sec. 4734.10. In addition to rules that are required by this 1118
chapter to be adopted, the state chiropractic board may adopt any 1119
other rules necessary to govern the practice of chiropractic and 1120
acupuncture under this chapter and to administer and enforce this 1121
chapter. The rules shall be adopted in accordance with Chapter 1122
119. of the Revised Code. 1123

Sec. 4734.141. Except for individuals described in section 1124
4762.02 of the Revised Code, no person who holds a license to 1125
practice chiropractic issued by the state chiropractic board shall 1126
engage in the practice of acupuncture unless the person holds a 1127
valid certificate to practice acupuncture issued by the board 1128
under section 4734.283 of the Revised Code. 1129

Sec. 4734.142. No person who holds a certificate to practice 1130
acupuncture issued by the state chiropractic board under section 1131
4734.283 of the Revised Code shall do any of the following: 1132

(A) Perform an acupuncture service that is beyond the scope 1133
of the person's education, training, and experience; 1134

(B) Advertise or otherwise represent to the public that the 1135
person is engaged in the practice of oriental medicine; 1136

(C) Permit an employee or assistant, other than an individual 1137
described in section 4762.02 of the Revised Code, to do either of 1138
the following: 1139

(1) Insert, stimulate, or remove acupuncture needles; 1140

(2) Apply moxibustion. 1141

Sec. 4734.15. (A) The license provided for in this chapter 1142
shall entitle the holder thereof to practice chiropractic in this 1143
state. All of the following apply to the practice of chiropractic 1144
in this state: 1145

(1) A chiropractor is authorized to examine, diagnose, and 1146
assume responsibility for the care of patients, any or all of 1147
which is included in the practice of chiropractic. 1148

(2) The practice of chiropractic does not permit ~~the a~~ 1149
chiropractor to treat infectious, contagious, or venereal disease, 1150
to perform surgery ~~or acupuncture~~, or to prescribe or administer 1151
drugs for treatment. 1152

(3) Except as provided in division (B) of this section, the 1153
practice of chiropractic does not permit a chiropractor to perform 1154
acupuncture. 1155

(4) A chiropractor may use roentgen rays only for diagnostic 1156
purposes. 1157

~~(4)~~(5) The practice of chiropractic does not include the 1158
performance of abortions. 1159

(B) A chiropractor who holds a valid certificate to practice 1160
acupuncture issued under section 4734.283 of the Revised Code is 1161
authorized to perform acupuncture. 1162

(C) An individual holding a valid, current license to 1163

practice chiropractic is entitled to use the title "doctor," 1164
"doctor of chiropractic," "chiropractic physician," or 1165
"chiropractic" and is a "physician" for the purposes of Chapter 1166
4123. of the Revised Code. 1167

Sec. 4734.16. The state chiropractic board may establish a 1168
code of ethics that applies to chiropractors and their practice of 1169
chiropractic ~~in this state~~ and acupuncture under this chapter. The 1170
board may establish the code of ethics by creating its own code of 1171
ethics or by adopting a code of ethics created by a state or 1172
federal organization that represents the interests of 1173
chiropractors. If a code of ethics is established, the board shall 1174
maintain current copies of the code of ethics for distribution on 1175
request. 1176

Sec. 4734.17. (A) An individual whom the state chiropractic 1177
board licenses to engage in the practice of chiropractic or 1178
certifies to practice acupuncture may render the professional 1179
services of a chiropractor or chiropractor certified to practice 1180
acupuncture within this state through a corporation formed under 1181
division (B) of section 1701.03 of the Revised Code, a limited 1182
liability company formed under Chapter 1705. of the Revised Code, 1183
a partnership, or a professional association formed under Chapter 1184
1785. of the Revised Code. This division does not preclude a 1185
chiropractor from rendering professional services as a 1186
chiropractor or chiropractor certified to practice acupuncture 1187
through another form of business entity, including, but not 1188
limited to, a nonprofit corporation or foundation, or in another 1189
manner that is authorized by or in accordance with this chapter, 1190
another chapter of the Revised Code, or rules of the state 1191
chiropractic board adopted pursuant to this chapter. 1192

(B) A corporation, limited liability company, partnership, or 1193
professional association described in division (A) of this section 1194

may be formed for the purpose of providing a combination of the 1195
professional services of the following individuals who are 1196
licensed, certificated, or otherwise legally authorized to 1197
practice their respective professions: 1198

(1) Optometrists who are authorized to practice optometry, 1199
under Chapter 4725. of the Revised Code; 1200

(2) Chiropractors who are authorized to practice chiropractic 1201
or acupuncture under this chapter; 1202

(3) Psychologists who are authorized to practice psychology 1203
under Chapter 4732. of the Revised Code; 1204

(4) Registered or licensed practical nurses who are 1205
authorized to practice nursing as registered nurses or as licensed 1206
practical nurses under Chapter 4723. of the Revised Code; 1207

(5) Pharmacists who are authorized to practice pharmacy under 1208
Chapter 4729. of the Revised Code; 1209

(6) Physical therapists who are authorized to practice 1210
physical therapy under sections 4755.40 to 4755.56 of the Revised 1211
Code; 1212

(7) Occupational therapists who are authorized to practice 1213
occupational therapy under sections 4755.04 to 4755.13 of the 1214
Revised Code; 1215

(8) Mechanotherapists who are authorized to practice 1216
mechanotherapy under section 4731.151 of the Revised Code; 1217

(9) Doctors of medicine and surgery, osteopathic medicine and 1218
surgery, or podiatric medicine and surgery who are authorized for 1219
their respective practices under Chapter 4731. of the Revised 1220
Code. 1221

This division shall apply notwithstanding a provision of any 1222
code of ethics established or adopted under section 4734.16 of the 1223
Revised Code that prohibits an individual from engaging in the 1224

practice of chiropractic or acupuncture in combination with an 1225
individual who is licensed, certificated, or otherwise authorized 1226
for the practice of optometry, psychology, nursing, pharmacy, 1227
physical therapy, occupational therapy, mechanotherapy, medicine 1228
and surgery, osteopathic medicine and surgery, or podiatric 1229
medicine and surgery, but who is not also licensed under this 1230
chapter to engage in the practice of chiropractic. 1231

Sec. 4734.19. A chiropractor shall retain at the 1232
chiropractor's primary practice location a current copy of the 1233
statutes and rules governing the practice of chiropractic ~~in this~~ 1234
~~state and acupuncture under this chapter.~~ 1235

Sec. 4734.211. (A) In consultation with the state medical 1236
board, the state chiropractic board shall approve courses of study 1237
in acupuncture that prepare a chiropractor licensed under this 1238
chapter to receive a certificate to practice acupuncture issued 1239
under section 4732.283 of the Revised Code. 1240

(B) To be approved, a course of study must require the 1241
successful completion of at least three hundred hours of 1242
instruction. Of the three hundred hours of instruction, at least 1243
two hundred hours must consist of direct clinical instruction that 1244
covers all of the following: 1245

(1) Application of acupuncture techniques; 1246

(2) An introduction to traditional Chinese acupuncture; 1247

(3) Acupuncture points; 1248

(4) Applications of acupuncture in modern western medicine; 1249

(5) Guidelines on safety in acupuncture; 1250

(6) Treatment techniques. 1251

(C) In determining whether to approve a course of study, the 1252
state chiropractic board shall take into consideration the 1253

qualifications of the entity that administers the course of study. 1254
The board may approve a course of study that is administered by 1255
any of the following: 1256

(1) A school or college of chiropractic that has been 1257
approved by a national entity acceptable to the board; 1258

(2) An institution with an acupuncture program that is 1259
accredited by the accreditation commission for acupuncture and 1260
oriental medicine; 1261

(3) A school or college of medicine and surgery, osteopathic 1262
medicine and surgery, or podiatric medicine and surgery; 1263

(4) A hospital; 1264

(5) An institution that holds a certificate of authorization 1265
from the board of regents; 1266

(6) An institution that holds program authorization from the 1267
state board of career colleges and schools under section 3332.05 1268
of the Revised Code. 1269

Sec. 4734.28. As used in sections 4734.28 to 4734.286 of the 1270
Revised Code: 1271

(A) "Acupuncture" means a form of health care performed by 1272
the insertion and removal of specialized needles, with or without 1273
the application of moxibustion or electrical stimulation, to 1274
specific areas of the human body. 1275

(B) "Moxibustion" means the use of an herbal heat source on 1276
one or more acupuncture points. 1277

Sec. 4734.281. Except in cases where a chiropractor holds a 1278
certificate issued under section 4762.04 of the Revised Code or is 1279
an individual described in division (B) of section 4762.02 of the 1280
Revised Code, a chiropractor licensed under this chapter shall not 1281
engage in the practice of acupuncture unless the chiropractor 1282

holds a valid certificate to practice acupuncture issued by the 1283
state chiropractic board under this chapter. 1284

Sec. 4734.282. (A) A chiropractor licensed under this chapter 1285
seeking a certificate to practice acupuncture shall file with the 1286
state chiropractic board a written application on a form 1287
prescribed and supplied by the board. The application shall 1288
include all of the following: 1289

(1) Evidence satisfactory to the board that the applicant's 1290
license is current and valid and that the applicant is in good 1291
standing with the board; 1292

(2) Evidence satisfactory to the board that the applicant has 1293
completed a course of study in acupuncture approved by the board 1294
in accordance with section 4734.211 of the Revised Code. 1295

(3) Evidence satisfactory to the board that the applicant has 1296
passed the acupuncture examination administered by the national 1297
board of chiropractic examiners or a person that administers the 1298
examinations on the national board's behalf. 1299

(B) The board shall review all applications received under 1300
this section. The board shall determine whether an applicant meets 1301
the requirements to receive a certificate to practice acupuncture 1302
not later than sixty days after receiving a complete application. 1303
The affirmative vote of not fewer than three members of the board 1304
is required to determine that an applicant meets the requirements 1305
for a certificate. 1306

(C) At the time of making application for a certificate to 1307
practice acupuncture, the applicant shall pay the board a fee in 1308
an amount determined by the board pursuant to rules adopted under 1309
section 4734.10 of the Revised Code, no part of which shall be 1310
returned. 1311

Sec. 4734.283. If the state chiropractic board determines 1312
under section 4734.282 of the Revised Code that an applicant meets 1313
the requirements for a certificate to practice acupuncture, the 1314
executive director of the board shall issue to the applicant a 1315
certificate to practice acupuncture. The certificate shall expire 1316
annually. It may be renewed in accordance with section 4734.284 of 1317
the Revised Code. 1318

Sec. 4734.284. A chiropractor seeking to renew a certificate 1319
to practice acupuncture shall follow the standard renewal 1320
procedures of Chapter 4745. of the Revised Code and do all of the 1321
following: 1322

(A) Furnish the state chiropractic board with satisfactory 1323
evidence that the chiropractor completed, during the twenty-four 1324
months immediately preceding renewal, at least twelve hours of 1325
acupuncture continuing education provided by an entity that 1326
administers a course of study approved under section 4734.211 of 1327
the Revised Code; 1328

(B) Certify to the board that the chiropractor remains in 1329
good standing with the board and has not engaged in any conduct 1330
for which the board may take action under division (C) of section 1331
4734.31 of the Revised Code; 1332

(C) Pay a renewal fee in an amount determined by the board 1333
pursuant to rules adopted under section 4734.10 of the Revised 1334
Code. 1335

Sec. 4734.285. A chiropractor who holds a certificate to 1336
practice acupuncture issued under this chapter may represent or 1337
advertise the chiropractor to be a "chiropractor certified by the 1338
state chiropractic board to practice acupuncture." Unless the 1339
chiropractor holds a license issued under section 4762.04 of the 1340
Revised Code, the chiropractor shall not represent or advertise 1341

the chiropractor as holding any of the titles listed in section 1342
4762.08 of the Revised Code. 1343

This section does not prohibit a chiropractor from using any 1344
of the titles listed in division (C) of section 4734.15 of the 1345
Revised Code. 1346

Sec. 4734.286. (A) A chiropractor who holds a certificate to 1347
practice acupuncture issued under this chapter who intends not to 1348
practice acupuncture in this state for an extended period of time 1349
may send to the state chiropractic board written notice to that 1350
effect on or before the certificate renewal date. If the 1351
chiropractor's certificate is in good standing and the 1352
chiropractor is not under disciplinary review pursuant to section 1353
4734.31 of the Revised Code, the board shall classify the 1354
certificate as inactive and the chiropractor may not engage in the 1355
practice of acupuncture in this state or make any representation 1356
to the public indicating that the chiropractor is actively 1357
certified to practice acupuncture under this chapter. A 1358
chiropractor whose certificate to practice acupuncture is 1359
classified as inactive is not required to pay the certificate 1360
renewal fee for the certificate. 1361

(B) The holder of an inactive certificate to practice 1362
acupuncture may apply to the board to have the certificate 1363
restored. The board shall consider the length of inactivity and, 1364
in accordance with the conditions for issuance of a license to 1365
practice chiropractic established under section 4734.20 of the 1366
Revised Code and the requirements for issuance of a certificate to 1367
practice acupuncture established under section 4734.282 of the 1368
Revised Code, the moral character and the activities of the 1369
applicant during the inactive period. The board may impose terms 1370
and conditions on restoration of the certificate by doing any of 1371
the following: 1372

(1) Requiring the applicant to obtain training, which may 1373
include requiring the applicant to pass an examination on 1374
completion of the training; 1375

(2) Requiring the applicant to pass an oral or written 1376
examination, or both, to determine fitness to resume practice; 1377

(3) Restricting or limiting the extent, scope, or type of 1378
practice of the applicant. 1379

Sec. 4734.31. (A) The state chiropractic board may take any 1380
of the actions specified in division (B) of this section against 1381
an individual who has applied for or holds a license to practice 1382
chiropractic in this state if any of the reasons specified in 1383
division (C) of this section for taking action against an 1384
individual are applicable. Except as provided in division (D) of 1385
this section, actions taken against an individual shall be taken 1386
in accordance with Chapter 119. of the Revised Code. The board may 1387
specify that any action it takes is a permanent action. The 1388
board's authority to take action against an individual is not 1389
removed or limited by the individual's failure to renew a license. 1390

(B) In its imposition of sanctions against an individual, the 1391
board may do any of the following: 1392

(1) Refuse to issue, renew, restore, or reinstate a license 1393
to practice chiropractic or a certificate to practice acupuncture; 1394

(2) Reprimand or censure a license holder; 1395

(3) Place limits, restrictions, or probationary conditions on 1396
a license holder's practice; 1397

(4) Impose a civil fine of not more than five thousand 1398
dollars according to a schedule of fines specified in rules that 1399
the board shall adopt in accordance with ~~chapter~~ Chapter 119. of 1400
the Revised Code. 1401

(5) Suspend a license to practice chiropractic or a 1402

certificate to practice acupuncture for a limited or indefinite 1403
period; 1404

(6) Revoke a license to practice chiropractic or a 1405
certificate to practice acupuncture. 1406

(C) The board may take the actions specified in division (B) 1407
of this section for any of the following reasons: 1408

(1) A plea of guilty to, a judicial finding of guilt of, or a 1409
judicial finding of eligibility for intervention in lieu of 1410
conviction for, a felony in any jurisdiction, in which case a 1411
certified copy of the court record shall be conclusive evidence of 1412
the conviction; 1413

(2) Commission of an act that constitutes a felony in this 1414
state, regardless of the jurisdiction in which the act was 1415
committed; 1416

(3) A plea of guilty to, a judicial finding of guilt of, or a 1417
judicial finding of eligibility for intervention in lieu of 1418
conviction for, a misdemeanor involving moral turpitude, as 1419
determined by the board, in which case a certified copy of the 1420
court record shall be conclusive evidence of the matter; 1421

(4) Commission of an act involving moral turpitude that 1422
constitutes a misdemeanor in this state, regardless of the 1423
jurisdiction in which the act was committed; 1424

(5) A plea of guilty to, a judicial finding of guilt of, or a 1425
judicial finding of eligibility for intervention in lieu of 1426
conviction for, a misdemeanor committed in the course of practice, 1427
in which case a certified copy of the court record shall be 1428
conclusive evidence of the matter; 1429

(6) Commission of an act in the course of practice that 1430
constitutes a misdemeanor in this state, regardless of the 1431
jurisdiction in which the act was committed; 1432

(7) A violation or attempted violation of this chapter or the 1433
rules adopted under it governing the practice of chiropractic and 1434
the practice of acupuncture by a chiropractor licensed under this 1435
chapter; 1436

(8) Failure to cooperate in an investigation conducted by the 1437
board, including failure to comply with a subpoena or order issued 1438
by the board or failure to answer truthfully a question presented 1439
by the board at a deposition or in written interrogatories, except 1440
that failure to cooperate with an investigation shall not 1441
constitute grounds for discipline under this section if the board 1442
or a court of competent jurisdiction has issued an order that 1443
either quashes a subpoena or permits the individual to withhold 1444
the testimony or evidence in issue; 1445

(9) Engaging in an ongoing professional relationship with a 1446
person or entity that violates any provision of this chapter or 1447
the rules adopted under it, unless the chiropractor makes a good 1448
faith effort to have the person or entity comply with the 1449
provisions; 1450

(10) Retaliating against a chiropractor for the 1451
chiropractor's reporting to the board or any other agency with 1452
jurisdiction any violation of the law or for cooperating with the 1453
board of another agency in the investigation of any violation of 1454
the law; 1455

(11) Aiding, abetting, assisting, counseling, or conspiring 1456
with any person in that person's violation of any provision of 1457
this chapter or the rules adopted under it, including the practice 1458
of chiropractic without a license, the practice of acupuncture 1459
without a certificate, or aiding, abetting, assisting, counseling, 1460
or conspiring with any person in that person's unlicensed practice 1461
of any other health care profession that has licensing 1462
requirements; 1463

(12) With respect to a report or record that is made, filed, 1464
or signed in connection with the practice of chiropractic or 1465
acupuncture, knowingly making or filing a report or record that is 1466
false, intentionally or negligently failing to file a report or 1467
record required by federal, state, or local law or willfully 1468
impeding or obstructing the required filing, or inducing another 1469
person to engage in any such acts; 1470

(13) Making a false, fraudulent, or deceitful statement to 1471
the board or any agent of the board during any investigation or 1472
other official proceeding conducted by the board under this 1473
chapter or in any filing that must be submitted to the board; 1474

(14) Attempting to secure a license to practice chiropractic 1475
or certificate to practice acupuncture or to corrupt the outcome 1476
of an official board proceeding through bribery or any other 1477
improper means; 1478

(15) Willfully obstructing or hindering the board or any 1479
agent of the board in the discharge of the board's duties; 1480

(16) Habitually using drugs or intoxicants to the extent that 1481
the person is rendered unfit for the practice of chiropractic or 1482
acupuncture; 1483

(17) Inability to practice chiropractic or acupuncture 1484
according to acceptable and prevailing standards of care by reason 1485
of chemical dependency, mental illness, or physical illness, 1486
including conditions in which physical deterioration has adversely 1487
affected the person's cognitive, motor, or perceptive skills and 1488
conditions in which a chiropractor's continued practice may pose a 1489
danger to the chiropractor or the public; 1490

(18) Any act constituting gross immorality relative to the 1491
person's practice of chiropractic or acupuncture, including acts 1492
involving sexual abuse, sexual misconduct, or sexual exploitation; 1493

(19) Exploiting a patient for personal or financial gain; 1494

- (20) Failing to maintain proper, accurate, and legible 1495
records in the English language documenting each patient's care, 1496
including, as appropriate, records of the following: dates of 1497
treatment, services rendered, examinations, tests, x-ray reports, 1498
referrals, and the diagnosis or clinical impression and clinical 1499
treatment plan provided to the patient; 1500
- (21) Except as otherwise required by the board or by law, 1501
disclosing patient information gained during the chiropractor's 1502
professional relationship with a patient without obtaining the 1503
patient's authorization for the disclosure; 1504
- (22) Commission of willful or gross malpractice, or willful 1505
or gross neglect, in the practice of chiropractic or acupuncture; 1506
- (23) Failing to perform or negligently performing an act 1507
recognized by the board as a general duty or the exercise of due 1508
care in the practice of chiropractic or acupuncture, regardless of 1509
whether injury results to a patient from the failure to perform or 1510
negligent performance of the act; 1511
- (24) Engaging in any conduct or practice that impairs or may 1512
impair the ability to practice chiropractic or acupuncture safely 1513
and skillfully; 1514
- (25) Practicing, or claiming to be capable of practicing, 1515
beyond the scope of the practice of chiropractic or acupuncture as 1516
established under this chapter and the rules adopted under this 1517
chapter; 1518
- (26) Accepting and performing professional responsibilities 1519
as a chiropractor or chiropractor with a certificate to practice 1520
acupuncture when not qualified to perform those responsibilities, 1521
if the person knew or had reason to know that the person was not 1522
qualified to perform them; 1523
- (27) Delegating any of the professional responsibilities of a 1524
chiropractor or chiropractor with a certificate to practice 1525

acupuncture to an employee or other individual when the delegating 1526
chiropractor knows or had reason to know that the employee or 1527
other individual is not qualified by training, experience, or 1528
professional licensure to perform the responsibilities; 1529

(28) Delegating any of the professional responsibilities of a 1530
chiropractor or chiropractor with a certificate to practice 1531
acupuncture to an employee or other individual in a negligent 1532
manner or failing to provide proper supervision of the employee or 1533
other individual to whom the responsibilities are delegated; 1534

(29) Failing to refer a patient to another health care 1535
practitioner for consultation or treatment when the chiropractor 1536
knows or has reason to know that the referral is in the best 1537
interest of the patient; 1538

(30) Obtaining or attempting to obtain any fee or other 1539
advantage by fraud or misrepresentation; 1540

(31) Making misleading, deceptive, false, or fraudulent 1541
representations in the practice of chiropractic or acupuncture; 1542

(32) Being guilty of false, fraudulent, deceptive, or 1543
misleading advertising or other solicitations for patients or 1544
knowingly having professional connection with any person that 1545
advertises or solicits for patients in such a manner; 1546

(33) Violation of a provision of any code of ethics 1547
established or adopted by the board under section 4734.16 of the 1548
Revised Code; 1549

(34) Failing to meet the examination requirements for receipt 1550
of a license specified under section 4734.20 of the Revised Code; 1551

(35) Actions taken for any reason, other than nonpayment of 1552
fees, by the chiropractic or acupuncture licensing authority of 1553
another state or country; 1554

(36) Failing to maintain clean and sanitary conditions at the 1555

clinic, office, or other place in which chiropractic services or 1556
acupuncture services are provided; 1557

(37) Except as provided in division (G) of this section: 1558

(a) Waiving the payment of all or any part of a deductible or 1559
copayment that a patient, pursuant to a health insurance or health 1560
care policy, contract, or plan that covers the chiropractor's 1561
services, otherwise would be required to pay if the waiver is used 1562
as an enticement to a patient or group of patients to receive 1563
health care services from that chiropractor; 1564

(b) Advertising that the chiropractor will waive the payment 1565
of all or any part of a deductible or copayment that a patient, 1566
pursuant to a health insurance or health care policy, contract, or 1567
plan that covers the chiropractor's services, otherwise would be 1568
required to pay. 1569

(38) Failure to supervise an acupuncturist in accordance with 1570
the provisions of section 4762.11 of the Revised Code that are 1571
applicable to the supervising chiropractor of an acupuncturist. 1572

(D) The adjudication requirements of Chapter 119. of the 1573
Revised Code apply to the board when taking actions against an 1574
individual under this section, except as follows: 1575

(1) An applicant is not entitled to an adjudication for 1576
failing to meet the conditions specified under section 4734.20 of 1577
the Revised Code for receipt of a license that involve the board's 1578
examination on jurisprudence or the examinations of the national 1579
board of chiropractic examiners. 1580

(2) A person is not entitled to an adjudication if the person 1581
fails to make a timely request for a hearing, in accordance with 1582
Chapter 119. of the Revised Code. 1583

(3) In lieu of an adjudication, the board may accept the 1584
surrender of a license to practice chiropractic or certificate to 1585

practice acupuncture from a chiropractor. 1586

(4) In lieu of an adjudication, the board may enter into a 1587
consent agreement with an individual to resolve an allegation of a 1588
violation of this chapter or any rule adopted under it. A consent 1589
agreement, when ratified by the board, shall constitute the 1590
findings and order of the board with respect to the matter 1591
addressed in the agreement. If the board refuses to ratify a 1592
consent agreement, the admissions and findings contained in the 1593
consent agreement shall be of no force or effect. 1594

(E) This section does not require the board to hire, contract 1595
with, or retain the services of an expert witness when the board 1596
takes action against a chiropractor concerning compliance with 1597
acceptable and prevailing standards of care in the practice of 1598
chiropractic or acupuncture. As part of an action taken concerning 1599
compliance with acceptable and prevailing standards of care, the 1600
board may rely on the knowledge of its members for purposes of 1601
making a determination of compliance, notwithstanding any expert 1602
testimony presented by the chiropractor that contradicts the 1603
knowledge and opinions of the members of the board. 1604

(F) The sealing of conviction records by a court shall have 1606
no effect on a prior board order entered under this section or on 1607
the board's jurisdiction to take action under this section if, 1608
based on a plea of guilty, a judicial finding of guilt, or a 1609
judicial finding of eligibility for intervention in lieu of 1610
conviction, the board issued a notice of opportunity for a hearing 1611
prior to the court's order to seal the records. The board shall 1612
not be required to seal, destroy, redact, or otherwise modify its 1613
records to reflect the court's sealing of conviction records. 1614

(G) Actions shall not be taken pursuant to division (C)(37) 1615
of this section against any chiropractor who waives deductibles 1616
and copayments as follows: 1617

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

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

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

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

(A) Requiring the applicant to obtain training, which may

include requiring the applicant to pass an examination upon 1648
completion of the training; 1649

(B) Requiring the applicant to pass an oral or written 1650
examination, or both, to determine fitness to resume practice; 1651

(C) Restricting or limiting the extent, scope, or type of 1652
practice of the applicant. 1653

Sec. 4734.36. A chiropractor who in this state pleads guilty 1654
to or is convicted of aggravated murder, murder, voluntary 1655
manslaughter, felonious assault, kidnapping, rape, sexual battery, 1656
gross sexual imposition, aggravated arson, aggravated robbery, or 1657
aggravated burglary, or who in another jurisdiction pleads guilty 1658
to or is convicted of any substantially equivalent criminal 1659
offense, is automatically suspended from practice in this state 1660
and the license issued under this chapter to practice chiropractic 1661
is automatically suspended as of the date of the guilty plea or 1662
conviction. If applicable, the chiropractor's certificate issued 1663
under this chapter to practice acupuncture is automatically 1664
suspended at the same time. Continued practice after suspension 1665
under this section shall be considered practicing chiropractic 1666
without a license and, if applicable, acupuncture without a 1667
certificate. On receiving notice or otherwise becoming aware of 1668
the conviction, the state chiropractic board shall notify the 1669
individual of the suspension under this section by certified mail 1670
or in person in accordance with section 119.07 of the Revised 1671
Code. If an individual whose license and, if applicable, 1672
certificate to practice acupuncture is suspended under this 1673
section fails to make a timely request for an adjudication, the 1674
board shall enter a final order revoking the individual's license 1675
and, if applicable, certificate to practice acupuncture. 1676

Sec. 4734.37. If the state chiropractic board determines that 1677

there is clear and convincing evidence that a person who has been 1678
granted a license to practice chiropractic and, if applicable, 1679
certificate to practice acupuncture under this chapter has 1680
committed an act that subjects the person's license and, if 1681
applicable, certificate to board action under section 4734.31 of 1682
the Revised Code and that the person's continued practice presents 1683
a danger of immediate and serious harm to the public, the board 1684
may suspend the license and, if applicable, certificate without a 1685
prior hearing. A telephone conference call may be utilized for 1686
reviewing the matter and taking the vote. 1687

The board shall issue a written order of suspension by 1688
certified mail or in person in accordance with section 119.07 of 1689
the Revised Code. The order is not subject to suspension by the 1690
court during pendency of any appeal filed under section 119.12 of 1691
the Revised Code. If the person subject to the suspension requests 1692
an adjudication by the board, the date set for the adjudication 1693
shall be within twenty days, but not earlier than seven days, 1694
after the request, unless otherwise agreed to by both the board 1695
and the person subject to the suspension. 1696

Any summary suspension imposed under this section shall 1697
remain in effect, unless reversed on appeal, until a final 1698
adjudicative order issued by the board pursuant to section 4734.31 1699
and Chapter 119. of the Revised Code becomes effective. The board 1700
shall issue its final adjudicative order within sixty days after 1701
completion of its adjudication. A failure to issue the order 1702
within sixty days shall result in dissolution of the summary 1703
suspension order but shall not invalidate any subsequent, final 1704
adjudicative order. 1705

Sec. 4734.38. If any person who has been granted a license to 1706
practice chiropractic and, if applicable, certificate to practice 1707
acupuncture under this chapter is adjudged by a probate court to 1708

be mentally ill or mentally incompetent, the person's license and, 1709
if applicable, certificate shall be automatically suspended until 1710
the person has filed with the state chiropractic board a certified 1711
copy of an adjudication by a probate court of being restored to 1712
competency or has submitted to the board proof, satisfactory to 1713
the board, of having been discharged as being restored to 1714
competency in the manner and form provided in section 5122.38 of 1715
the Revised Code. The judge of the court shall forthwith notify 1716
the board of an adjudication of mental illness or mental 1717
incompetence. 1718

Sec. 4734.39. (A) For purposes of the state chiropractic 1719
board's enforcement of division (C)(16) or (17) of section 4734.31 1720
of the Revised Code, an individual who applies for or receives a 1721
license to practice chiropractic or certificate to practice 1722
acupuncture under this chapter accepts the privilege of practicing 1723
chiropractic and, if applicable, acupuncture in this state and, by 1724
so doing, shall be deemed to have given consent to submit to a 1725
mental or physical examination when directed to do so in writing 1726
by the board in its enforcement of those divisions, and to have 1727
waived all objections to the admissibility of testimony or 1728
examination reports that constitute a privileged communication. 1729

(B) If the board has reason to believe that a chiropractor or 1730
applicant suffers an impairment described in division (C)(16) or 1731
(17) of section 4734.31 of the Revised Code, the board may compel 1732
the individual to submit to a mental or physical examination, or 1733
both. The expense of the examination is the responsibility of the 1734
individual compelled to be examined. Any mental or physical 1735
examination required under this section shall be undertaken by a 1736
provider who is qualified to conduct the examination and who is 1737
chosen by the board. 1738

Failure to submit to a mental or physical examination ordered 1739

by the board constitutes an admission of the allegations against 1740
the individual unless the failure is due to circumstances beyond 1741
the individual's control. A default and final order may be entered 1742
without the taking of testimony or presentation of evidence. 1743

If the board determines that an individual's ability to 1744
practice is impaired, the board shall suspend the individual's 1745
license to practice chiropractic and, if applicable, certificate 1746
to practice acupuncture or deny the individual's application and 1747
shall require the individual, as a condition for initial, 1748
continued, reinstated, restored, or renewed certification to 1749
practice, to submit to care, counseling, or treatment. 1750

(C) Before being eligible to apply for reinstatement of a 1751
license or certificate suspended under division (C)(16) of section 1752
4734.31 of the Revised Code or the chemical dependency provisions 1753
of division (C)(17) of section 4731.34 of the Revised Code, the 1754
impaired individual shall demonstrate to the board the ability to 1755
resume practice in compliance with acceptable and prevailing 1756
standards of care in the practice of chiropractic and, if 1757
applicable, acupuncture under this chapter. If rules have been 1758
adopted under section 4734.40 of the Revised Code, the 1759
demonstration shall include, but shall not be limited to, the 1760
following: 1761

(1) Certification from a treatment provider approved under 1762
section 4734.40 of the Revised Code that the individual has 1763
successfully completed any required inpatient treatment; 1764

(2) Evidence of continuing full compliance with an aftercare 1765
contract or consent agreement; 1766

(3) Two written reports indicating that the individual's 1767
ability to practice has been assessed and that the individual has 1768
been found capable of practicing according to acceptable and 1769
prevailing standards of care. The reports shall be made by 1770

individuals or providers approved by the board for making the 1771
assessments and shall describe the basis for their determination. 1772

The board may reinstate a license and, if applicable, 1773
certificate suspended under this division after that demonstration 1774
and after the individual has entered into a written consent 1775
agreement. 1776

When the impaired individual resumes practice, the board 1777
shall require continued monitoring of the individual. The 1778
monitoring shall include, but not be limited to, compliance with 1779
the written consent agreement entered into before reinstatement or 1780
with conditions imposed by board order after a hearing, and, upon 1781
termination of the consent agreement, submission to the board for 1782
at least two years of annual written progress reports made under 1783
penalty of perjury stating whether the individual has maintained 1784
sobriety. 1785

Sec. 4734.47. (A) The executive director of the state 1786
chiropractic board shall function as the chief enforcement officer 1787
of the board and shall enforce the laws relating to the practice 1788
of chiropractic and acupuncture under this chapter. If the 1789
executive director has knowledge or notice of a violation of those 1790
laws, the executive director shall investigate the matter or cause 1791
the matter to be investigated. On probable cause appearing, the 1792
executive director shall prosecute the offender or cause the 1793
offender to be prosecuted. If the matter involves a violation by 1794
an individual licensed under this chapter, the executive director 1795
shall bring the matter before the board. If the matter involves a 1796
violation for which a penalty may be imposed under section 4734.99 1797
of the Revised Code, the executive director or a person authorized 1798
by the board to represent the executive director may file a 1799
complaint with the prosecuting attorney of the proper county. 1800
Except as provided in division (B) of this section, the 1801

prosecuting attorney shall take charge of and conduct the 1802
prosecution. 1803

(B) For purposes of enforcing this chapter, the board may 1804
petition a court of record to appoint an attorney to assist the 1805
prosecuting attorney in the prosecution of offenders or to take 1806
charge of and conduct the prosecutions as a special prosecutor. 1807
The court shall grant the petition if it is in the public 1808
interest. A special prosecutor appointed by the court shall be 1809
compensated by the board in an amount approved by the board. 1810

If the court believes that public knowledge of the 1811
appointment of a special prosecutor could allow one or more 1812
persons to interfere with the prosecution or any investigation 1813
related to the prosecution, the court may seal all documents 1814
pertaining to the appointment. Sealed documents shall remain 1815
sealed until there is court action on the prosecution or until the 1816
court orders the documents to be opened. 1817

Sec. 4734.49. (A) The attorney general, the prosecuting 1818
attorney of the county in which a violation of this chapter is 1819
committed or is threatened to be committed or in which the 1820
offender resides, the state chiropractic board, or any other 1821
person having knowledge of a person committing or threatening to 1822
commit a violation of this chapter may, in accordance with the 1823
provisions of the Revised Code governing injunctions, maintain an 1824
action in the name of this state to enjoin the person from 1825
committing the violation by applying for an injunction in any 1826
court of competent jurisdiction. Upon the filing of a verified 1827
petition in court, the court shall conduct a hearing on the 1828
petition and shall give the same preference to this proceeding as 1829
is given all proceedings under Chapter 119. of the Revised Code, 1830
irrespective of the position of the proceeding on the calendar of 1831
the court. If the court grants a final or permanent injunction 1832

that is a final appealable order, the court may award to the 1833
person or entity that maintained the action an amount not 1834
exceeding five thousand dollars to cover reasonable attorney's 1835
fees, investigative costs, and other costs related to the 1836
investigation or prosecution of the case. Injunction proceedings 1837
brought under this section shall be in addition to, and not in 1838
lieu of, all penalties and other remedies provided in this 1839
chapter. 1840

(B)(1) The practice of chiropractic by any person not at that 1841
time holding a valid and current license issued under this chapter 1842
is hereby declared to be inimical to the public welfare and to 1843
constitute a public nuisance. 1844

(2) Except for the practice of acupuncture by persons 1845
described in section 4762.02 of the Revised Code and persons who 1846
hold certificates issued under section 4762.04 of the Revised 1847
Code, the practice of acupuncture by any person not at that time 1848
holding a valid and current certificate to practice acupuncture 1849
issued under this chapter is hereby declared to be inimical to the 1850
public welfare and to constitute a public nuisance. 1851

Sec. 4734.50. This chapter does not require the state 1852
chiropractic board to act on minor violations of this chapter or 1853
the rules adopted under it, if the violations are committed by 1854
individuals licensed to practice chiropractic or certified to 1855
practice acupuncture under this chapter and the board determines 1856
that the public interest is adequately served by issuing a notice 1857
or warning to the alleged offender. 1858

Sec. 4734.55. The state chiropractic board shall provide a 1859
duplicate license to practice chiropractic or certificate to 1860
practice acupuncture to a license or certificate holder on payment 1861
of a fee of forty-five dollars. 1862

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

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

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

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

(C) Whoever violates division (A), (B), (C), or (D) of
section 4734.32 of the Revised Code is guilty of a minor

misdemeanor on a first offense; on each subsequent offense, the 1894
person is guilty of a misdemeanor of the fourth degree, except 1895
that an individual guilty of a subsequent offense shall not be 1896
subject to imprisonment, but to a fine alone of up to one thousand 1897
dollars for each offense. 1898

Sec. 4755.471. (A) An individual whom the physical therapy 1899
section of the Ohio occupational therapy, physical therapy, and 1900
athletic trainers board licenses, certificates, or otherwise 1901
legally authorizes to engage in the practice of physical therapy 1902
may render the professional services of a physical therapist 1903
within this state through a corporation formed under division (B) 1904
of section 1701.03 of the Revised Code, a limited liability 1905
company formed under Chapter 1705. of the Revised Code, a 1906
partnership, or a professional association formed under Chapter 1907
1785. of the Revised Code. This division does not preclude an 1908
individual of that nature from rendering professional services as 1909
a physical therapist through another form of business entity, 1910
including, but not limited to, a nonprofit corporation or 1911
foundation, or in another manner that is authorized by or in 1912
accordance with sections 4755.40 to 4755.53 of the Revised Code, 1913
another chapter of the Revised Code, or rules of the Ohio 1914
occupational therapy, physical therapy, and athletic trainers 1915
board adopted pursuant to sections 4755.40 to 4755.53 of the 1916
Revised Code. 1917

(B) A corporation, limited liability company, partnership, or 1918
professional association described in division (A) of this section 1919
may be formed for the purpose of providing a combination of the 1920
professional services of the following individuals who are 1921
licensed, certificated, or otherwise legally authorized to 1922
practice their respective professions: 1923

(1) Optometrists who are authorized to practice optometry 1924

under Chapter 4725. of the Revised Code;	1925
(2) Chiropractors who are authorized to practice chiropractic	1926
<u>or acupuncture</u> under Chapter 4734. of the Revised Code;	1927
(3) Psychologists who are authorized to practice psychology	1928
under Chapter 4732. of the Revised Code;	1929
(4) Registered or licensed practical nurses who are	1930
authorized to practice nursing as registered nurses or as licensed	1931
practical nurses under Chapter 4723. of the Revised Code;	1932
(5) Pharmacists who are authorized to practice pharmacy under	1933
Chapter 4729. of the Revised Code;	1934
(6) Physical therapists who are authorized to practice	1935
physical therapy under sections 4755.40 to 4755.53 <u>4755.56</u> of the	1936
Revised Code;	1937
(7) Mechanotherapists who are authorized to practice	1938
mechanotherapy under section 4731.151 of the Revised Code;	1939
(8) Doctors of medicine and surgery, osteopathic medicine and	1940
surgery, or podiatric medicine and surgery who are authorized for	1941
their respective practices under Chapter 4731. of the Revised	1942
Code.	1943
This division shall apply notwithstanding a provision of a	1944
code of ethics applicable to a physical therapist that prohibits a	1945
physical therapist from engaging in the practice of physical	1946
therapy in combination with a person who is licensed,	1947
certificated, or otherwise legally authorized to practice	1948
optometry, chiropractic, <u>acupuncture through the state</u>	1949
<u>chiropractic board</u> , psychology, nursing, pharmacy, mechanotherapy,	1950
medicine and surgery, osteopathic medicine and surgery, or	1951
podiatric medicine and surgery, but who is not also licensed,	1952
certificated, or otherwise legally authorized to engage in the	1953
practice of physical therapy.	1954

Sec. 4762.01. As used in this chapter: 1955

(A) "Acupuncture" means a form of health care performed by 1956
the insertion and removal of specialized needles, with or without 1957
the application of moxibustion or electrical stimulation, to 1958
specific areas of the human body. 1959

(B) "Chiropractor" means an individual licensed under Chapter 1960
4734. of the Revised Code to engage in the practice of 1961
chiropractic. 1962

(C) "Moxibustion" means the use of an herbal heat source on 1963
one or more acupuncture points. 1964

~~(C)~~(D) "Physician" means an individual authorized under 1965
Chapter 4731. of the Revised Code to practice medicine and 1966
surgery, osteopathic medicine and surgery, or podiatry. 1967

Sec. 4762.02. (A) Except as provided in division (B) of this 1968
section, no person shall engage in the practice of acupuncture 1969
unless the person holds a valid certificate of registration as an 1970
acupuncturist issued by the state medical board under this 1971
chapter. 1972

(B) Division (A) of this section does not apply to ~~a~~ the 1973
following: 1974

(1) A physician ~~or to a~~; 1975

(2) A person who performs acupuncture as part of a training 1976
program in acupuncture operated by an educational institution that 1977
holds an effective certificate of authorization issued by the Ohio 1978
board of regents under section 1713.02 of the Revised Code or a 1979
school that holds an effective certificate of registration issued 1980
by the state board of career colleges and schools under section 1981
3332.05 of the Revised Code; 1982

(3) A chiropractor who holds a certificate to practice 1983

acupuncture issued by the state chiropractic board under section 1984
4734.283 of the Revised Code. 1985

Sec. 4762.09. An acupuncturist who holds a certificate of 1986
registration issued under this chapter shall conspicuously display 1987
at the acupuncturist's primary place of business both of the 1988
following: 1989

(A) ~~A~~ The acupuncturist's certificate of registration ~~issued~~ 1990
~~by the state medical board under this chapter,~~ as evidence that 1991
the acupuncturist is authorized to practice acupuncture in this 1992
state; 1993

(B) A notice specifying that the practice of acupuncture 1994
under the certificate of registration is regulated by the state 1995
medical board and the address and telephone number of the board's 1996
office. 1997

Sec. 4762.10. All of the following apply to the practice of a 1998
person who holds a certificate of registration as an acupuncturist 1999
issued under this chapter: 2000

(A) The acupuncturist shall perform acupuncture for a patient 2001
only if the patient has received a ~~physician's~~ written referral or 2002
prescription for acupuncture from a physician or chiropractor. As 2003
specified in the referral or prescription, the acupuncturist shall 2004
provide reports to the physician or chiropractor on the patient's 2005
condition or progress in treatment and comply with the conditions 2006
or restrictions on the acupuncturist's course of treatment. 2007

(B) The acupuncturist shall perform acupuncture under the 2008
general supervision of the patient's referring or prescribing 2009
physician or chiropractor. General supervision does not require 2010
that the acupuncturist and physician or chiropractor practice in 2011
the same office. 2012

(C) Prior to treating a patient, the acupuncturist shall 2013

advise the patient that acupuncture is not a substitute for 2014
conventional medical diagnosis and treatment. 2015

(D) On initially meeting a patient in person, the 2016
acupuncturist shall provide in writing the acupuncturist's name, 2017
business address, and business telephone number, and information 2018
on acupuncture, including the techniques that are used. 2019

(E) While treating a patient, the acupuncturist shall not 2020
make a diagnosis. If a patient's condition is not improving or a 2021
patient requires emergency medical treatment, the acupuncturist 2022
shall consult promptly with ~~the supervising~~ a physician. 2023

(F) An acupuncturist shall maintain records for each patient 2024
treated. In each patient's records, the acupuncturist shall 2025
include the written referral or prescription pursuant to which the 2026
acupuncturist is treating the patient. The records shall be 2027
confidential and shall be retained for not less than three years 2028
following termination of treatment. 2029

Sec. 4762.11. All of the following apply to an 2030
acupuncturist's supervising physician or chiropractor for a 2031
patient: 2032

(A) Before making the referral or prescription for 2033
acupuncture, the physician shall perform a medical diagnostic 2034
examination of the patient or review the results of a medical 2035
diagnostic examination recently performed by another physician, 2036
or, in the case of a chiropractor, the chiropractor shall perform 2037
a chiropractic diagnostic examination of the patient or review the 2038
results of a chiropractic diagnostic examination recently 2039
performed by another chiropractor. 2040

(B) The physician or chiropractor shall make the referral or 2041
prescription in writing and specify in the referral or 2042
prescription all of the following: 2043

(1) The physician's or chiropractor's diagnosis of the 2044
ailment or condition that is to be treated by acupuncture; 2045

(2) A time by which or the intervals at which the 2046
acupuncturist must provide reports to the physician or 2047
chiropractor regarding the patient's condition or progress in 2048
treatment; 2049

(3) The conditions or restrictions placed in accordance with 2050
division (C) of this section on the acupuncturist's course of 2051
treatment. 2052

(C) The physician shall place conditions or restrictions on 2053
the acupuncturist's course of treatment in compliance with 2054
accepted or prevailing standards of medical care, or, in the case 2055
of a chiropractor, the chiropractor shall place conditions or 2056
restrictions on the acupuncturist's course of treatment in 2057
compliance with accepted or prevailing standards of chiropractic 2058
care. 2059

(D) The physician or chiropractor shall be personally 2060
available for consultation with the acupuncturist. If the 2061
physician or chiropractor is not on the premises at which 2062
acupuncture is performed, the physician or chiropractor shall be 2063
readily available to the acupuncturist through some means of 2064
telecommunication and be in a location that under normal 2065
circumstances is not more than sixty minutes travel time away from 2066
the location where the acupuncturist is practicing. 2067

Sec. 4762.12. In the case of a patient with a claim under 2068
Chapter 4121. or 4123. of the Revised Code, an acupuncturist's 2069
supervising physician or chiropractor is eligible to be reimbursed 2070
for referring the patient to an acupuncturist or prescribing 2071
acupuncture for the patient only if the physician or chiropractor 2072
has attained knowledge in the treatment of patients with 2073
acupuncture, demonstrated by successful completion of a course of 2074

study in acupuncture administered by a college of medicine, 2075
osteopathic medicine, ~~or~~ podiatric medicine, or chiropractic 2076
acceptable to the bureau of workers' compensation or administered 2077
by another entity acceptable to the bureau. 2078

Sec. 4762.18. The (A) Subject to division (E) of this 2079
section, the attorney general, the prosecuting attorney of any 2080
county in which the offense was committed or the offender resides, 2081
the state medical board, or any other person having knowledge of a 2082
person engaged either directly or by complicity in the practice of 2083
acupuncture without having first obtained a certificate of 2084
registration to do so pursuant to this chapter, may, in accord 2085
with provisions of the Revised Code governing injunctions, 2086
maintain an action in the name of the state to enjoin any person 2087
from engaging either directly or by complicity in the unlawful 2088
practice of acupuncture by applying for an injunction in any court 2089
of competent jurisdiction. 2090

(B) Prior to application for an injunction under division (A) 2091
of this section, the secretary of the state medical board shall 2092
notify the person allegedly engaged either directly or by 2093
complicity in the unlawful practice of acupuncture by registered 2094
mail that the secretary has received information indicating that 2095
this person is so engaged. The person shall answer the secretary 2096
within thirty days showing that the person is either properly 2097
licensed for the stated activity or that the person is not in 2098
violation of this chapter. If the answer is not forthcoming within 2099
thirty days after notice by the secretary, the secretary shall 2100
request that the attorney general, the prosecuting attorney of the 2101
county in which the offense was committed or the offender resides, 2102
or the state medical board proceed as authorized in this section. 2103

(C) Upon the filing of a verified petition in court, the 2104
court shall conduct a hearing on the petition and shall give the 2105

same preference to this proceeding as is given all proceedings 2106
under Chapter 119. of the Revised Code, irrespective of the 2107
position of the proceeding on the calendar of the court. 2108

(D) Injunction proceedings as authorized by this section 2109
shall be in addition to, and not in lieu of, all penalties and 2110
other remedies provided in this chapter. 2111

(E) An injunction proceeding permitted by division (A) of 2112
this section may not be maintained against a person described in 2113
division (B) of section 4762.02 of the Revised Code or a 2114
chiropractor who holds a valid certificate to practice acupuncture 2115
issued under section 4734.283 of the Revised Code. 2116

Section 2. That existing sections 1701.03, 1705.03, 1705.04, 2117
1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 2118
3715.872, 3715.873, 4723.16, 4725.33, 4729.161, 4731.226, 4731.23, 2119
4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 2120
4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 2121
4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 2122
4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 of the 2123
Revised Code are hereby repealed. 2124

Section 3. Section 4725.33 of the Revised Code is presented 2125
in this act as a composite of the section as amended by both Am. 2126
Sub. H.B. 553 and Sub. H.B. 698 of the 122nd General Assembly. 2127
Section 4734.311 of the Revised Code is presented in this act as a 2128
composite of the section as amended by both Sub. H.B. 506 and Am. 2129
Sub. S.B. 180 of the 123rd General Assembly. The General Assembly, 2130
applying the principle stated in division (B) of section 1.52 of 2131
the Revised Code that amendments are to be harmonized if 2132
reasonably capable of simultaneous operation, finds that the 2133
composites are the resulting version of the sections in effect 2134
prior to the effective date of the sections as presented in this 2135
act. 2136