

As Introduced

**128th General Assembly
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H. B. No. 595

Representatives Letson, Wachtmann

**Cosponsors: Representatives Boyd, Gerberry, Sears, Slesnick, Stebelton,
Walter**

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A B I L L

To amend sections 2105.35, 2108.40, 4730.06, 4730.09, 1
4730.38, 4730.39, 4730.40, 4730.42, 4730.44, 2
4730.45, 4755.48, and 4755.481, to enact sections 3
2305.2310, 4730.04, 4730.53, and 5111.0212, and to 4
repeal section 4730.401 of the Revised Code 5
regarding Medicaid reimbursement for physician 6
assistants, immunity from civil liability for 7
physicians and physician assistants providing 8
certain emergency medical services, the 9
determination and pronouncement of death by 10
physician assistants, and the scope of practice 11
and prescriptive authority of physician 12
assistants. 13

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

Section 1. That sections 2105.35, 2108.40, 4730.06, 4730.09, 14
4730.38, 4730.39, 4730.40, 4730.42, 4730.44, 4730.45, 4755.48, and 15
4755.481 be amended and sections 2305.2310, 4730.04, 4730.53, and 16
5111.0212 of the Revised Code be enacted to read as follows: 17

Sec. 2105.35. (A)(1) A person is dead if the person has been 18

determined to be and pronounced dead pursuant to standards 19
established under section 2108.40 of the Revised Code. 20

(2) A physician or physician assistant who makes a 21
determination and pronouncement of death in accordance with 22
section 2108.40 of the Revised Code and any person who acts in 23
good faith in reliance on a determination and pronouncement of 24
death made ~~by a physician~~ in accordance with ~~that~~ section ~~is~~ 25
2108.40 of the Revised Code by a physician or physician assistant 26
are each entitled to the immunity conveyed by ~~that~~ section 2108.40 27
of the Revised Code. 28

(B) A certified or authenticated copy of a death certificate 29
purporting to be issued by an official or agency of the place 30
where the death of a person purportedly occurred is prima-facie 31
evidence of the fact, place, date, and time of the person's death 32
and the identity of the decedent. 33

(C) A certified or authenticated copy of any record or report 34
of a domestic or foreign governmental agency that a person is 35
missing, detained, dead, or alive is prima-facie evidence of the 36
status and of the dates, circumstances, and places disclosed by 37
the record or report. 38

(D) In the absence of prima-facie evidence of death under 39
division (B) or (C) of this section, the fact of death may be 40
established by clear and convincing evidence, including 41
circumstantial evidence. 42

(E) Except as provided in division (F) of this section, a 43
presumption of the death of a person arises: 44

(1) When the person has disappeared and been continuously 45
absent from the person's place of last domicile for a five-year 46
period without being heard from during the period; 47

(2) When the person has disappeared and been continuously 48

absent from the person's place of last domicile without being 49
heard from and was at the beginning of the person's absence 50
exposed to a specific peril of death, even though the absence has 51
continued for less than a five-year period. 52

(F) When a person who is on active duty in the armed services 53
of the United States has been officially determined to be absent 54
in a status of "missing" or "missing in action," a presumption of 55
death arises when the head of the federal department concerned has 56
made a finding of death pursuant to the "Federal Missing Persons 57
Act," 80 Stat. 625 (1966), 37 U.S.C.A. 551, as amended. 58

(G) In the absence of evidence disputing the time of death 59
stipulated on a document described in division (B) or (C) of this 60
section, a document described in either of those divisions that 61
stipulates a time of death one hundred twenty hours or more after 62
the time of death of another person, however the time of death of 63
the other person is determined, establishes by clear and 64
convincing evidence that the person survived the other person by 65
one hundred twenty hours. 66

(H) The provisions of divisions (A) to (G) of this section 67
are in addition to any other provisions of the Revised Code, the 68
Rules of Criminal Procedure, or the Rules of Evidence that pertain 69
to the determination of death and status of a person. 70

Sec. 2108.40. (A) An individual is dead if the individual has 71
sustained either irreversible cessation of circulatory and 72
respiratory functions or irreversible cessation of all functions 73
of the brain, including the brain stem, as determined in 74
accordance with accepted medical standards. If the respiratory and 75
circulatory functions of a person are being artificially 76
sustained, under accepted medical standards a determination that 77
death has occurred is made by a physician by observing and 78
conducting a test to determine that the irreversible cessation of 79

all functions of the brain has occurred. 80

(B) The determination and pronouncement of an individual's death may be made by a physician or, subject to divisions (C) and (D) of this section, a physician assistant. 81
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(C) A physician assistant may determine and pronounce an individual's death only if the individual's respiratory and circulatory functions are not being artificially sustained and, at the time the determination and pronouncement of death is made, either or both of the following conditions are met: 84
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(1) The individual was receiving care in one of the following: 89
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(a) A nursing home, residential care facility, or home for the aging licensed under Chapter 3721. of the Revised Code; 91
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(b) A county home or district home operated pursuant to Chapter 5155. of the Revised Code; 93
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(c) A residential facility licensed under section 5123.19 of the Revised Code. 95
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(2) The physician assistant is providing or supervising the individual's care through a hospice care program licensed under Chapter 3712. of the Revised Code or any other entity that provides palliative care. 97
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(D) If a physician assistant determines and pronounces an individual's death, both of the following conditions apply: 101
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(1) The physician assistant shall not complete any portion of the individual's death certificate. 103
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(2) The physician assistant shall notify the individual's attending physician of the determination and pronouncement in order for the physician to fulfill the physician's duties under section 3705.16 of the Revised Code. The physician assistant shall provide the notification within a reasonable period of time 105
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following the determination and pronouncement of the individual's 110
death. 111

(E)(1) A physician who makes a determination and 112
pronouncement of death in accordance with this section and 113
accepted medical standards is not liable for ~~damages, or subject~~ 114
to, any of the following for the physician's acts, the acts of a 115
physician assistant who makes a determination and pronouncement of 116
death in accordance with this section and accepted medical 117
standards, or the acts of others based on a determination and 118
pronouncement of death in accordance with this section and 119
accepted medical standards: 120

(a) Damages in any civil action ~~or subject to prosecution;~~ 121

(b) Prosecution in any criminal proceeding ~~for the~~ 122
~~physician's acts or the acts of others based on that~~ 123
~~determination;~~ 124

(c) Professional disciplinary action pursuant to Chapter 125
4731. of the Revised Code. 126

(2) A physician assistant who makes a determination and 127
pronouncement of death in accordance with this section and 128
accepted medical standards is not liable for, or subject to, any 129
of the following for the physician assistant's acts or the acts of 130
others based on that determination and pronouncement: 131

(a) Damages in any civil action; 132

(b) Prosecution in any criminal proceeding; 133

(c) Professional disciplinary action pursuant to Chapter 134
4730. of the Revised Code. 135

(3) Any person who acts in good faith in reliance on a 136
determination and pronouncement of death made by a physician or 137
physician assistant in accordance with this section and accepted 138
medical standards is not liable for damages in any civil action or 139

subject to prosecution in any criminal proceeding for the person's 140
actions. 141

Sec. 2305.2310. (A) As used in this section: 142

(1) "Disaster" means any imminent threat or actual occurrence 143
of widespread or severe damage to or loss of property, personal 144
hardship or injury, or loss of life that results from any natural 145
phenomenon or act of a human. 146

(2) "Medical claim" has the same meaning as in section 147
2305.113 of the Revised Code. 148

(3) "Physician" means an individual authorized under Chapter 149
4731. of the Revised Code to practice medicine and surgery, 150
osteopathic medicine and surgery, or podiatric medicine and 151
surgery. 152

(4) "Reckless disregard" as it applies to a given physician 153
or physician assistant rendering emergency medical services means 154
conduct that a physician or physician assistant knew or should 155
have known, at the time those services were rendered, created an 156
unreasonable risk of injury, death, or loss to person or property 157
so as to affect the life or health of another and that risk was 158
substantially greater than that which is necessary to make the 159
conduct negligent. 160

(5) "Tort action" means a civil action for damages for 161
injury, death, or loss to person or property other than a civil 162
action for damages for a breach of contract or another agreement 163
between persons or governmental entities. "Tort action" includes 164
an action on a medical claim. 165

(B)(1) Subject to division (C)(3) of this section, a 166
physician or physician assistant who provides emergency medical 167
services, first-aid treatment, or other emergency professional 168
care, including the provision of any medication or other medical 169

product, in compliance with the "Emergency Medical Treatment and 170
Active Labor Act," 100 Stat. 164 (1986), 42 U.S.C. 1395dd, as 171
amended, is not liable in damages to any person in a tort action 172
for injury, death, or loss to person or property that allegedly 173
arises from an act or omission of the physician or physician 174
assistant in the physician's or physician assistant's provision of 175
those services or that treatment or care if that act or omission 176
does not constitute a reckless disregard for the consequences so 177
as to affect the life or health of the patient. 178

(2) Subject to division (C)(3) of this section, a physician 179
or physician assistant who provides emergency medical services, 180
first-aid treatment, or other emergency professional care, 181
including the provision of any medication or other medical 182
product, as a result of a disaster is not liable in damages to any 183
person in a tort action for injury, death, or loss to person or 184
property that allegedly arises from an act or omission of the 185
physician or physician assistant in the physician's or physician 186
assistant's provision of those services or that treatment or care 187
if that act or omission does not constitute willful or wanton 188
misconduct. 189

(C)(1) This section does not create a new cause of action or 190
substantive legal right against a physician or physician 191
assistant. 192

(2) This section does not affect any immunities from civil 193
liability or defenses established by another section of the 194
Revised Code or available at common law to which a physician or 195
physician assistant may be entitled in connection with the 196
provision of emergency medical services, first-aid treatment, or 197
other emergency professional care. 198

(3) This section does not grant an immunity from tort or 199
other civil liability to a physician or physician assistant for 200
actions that are outside the scope of authority of the physician 201

or physician assistant. 202

(4) This section does not affect any legal responsibility of 203
a physician or physician assistant to comply with any applicable 204
law of this state or rule of an agency of this state. 205

(D) This section does not apply to a tort action alleging 206
wrongful death against a physician or physician assistant who 207
provides emergency medical services, first-aid treatment, or other 208
emergency medical care, including the provision of any medication 209
or other medical product that allegedly arises from an act or 210
omission of the physician or physician assistant in the 211
physician's or physician assistant's provision of those services 212
or that treatment or care or as a result of a disaster. 213

Sec. 4730.04. (A) As used in this section: 214

(1) "Disaster" means any imminent threat or actual occurrence 215
of widespread or severe damage to or loss of property, personal 216
hardship or injury, or loss of life that results from any natural 217
phenomenon or act of a human. 218

(2) "Emergency" means an occurrence or event that poses an 219
imminent threat to the health or life of a human. 220

(B) Nothing in this chapter prohibits any of the following 221
individuals from providing medical care, to the extent the 222
individual is able, in response to a need for such care 223
precipitated by a disaster or emergency: 224

(1) An individual who holds a certificate to practice as a 225
physician assistant issued under this chapter; 226

(2) An individual licensed or authorized to practice as a 227
physician assistant in another state; 228

(3) An individual credentialed or employed as a physician 229
assistant by an agency, office, or other instrumentality of the 230
United States government. 231

(C) Only for purposes of medical care provided by an individual described in division (B)(1) of this section in response to a need for such care precipitated by a disaster or emergency, nothing in this chapter does either of the following: 232
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(1) Requires the physician who supervises the physician assistant pursuant to a physician supervisory plan approved by the state medical board under section 4730.17 of the Revised Code to meet the supervision requirements in this chapter; 236
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(2) Prohibits the physician designated as the medical director of the disaster or emergency from supervising the medical care provided by the physician assistant. 240
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(D)(1)(a) Except as provided in division (D)(1)(b) of this section, an individual described in division (B) of this section who voluntarily and without remuneration of any kind or the expectation of remuneration provides medical care to the extent the individual is able in response to a need for such care precipitated by a disaster or an emergency shall not be liable in damages to any person in a tort or other civil action for injury, death, or loss to person or property that results from an act or omission by the individual providing medical care. 243
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(b) The immunity described in division (D)(1)(a) of this section shall not apply to an act or omission that constitutes willful or wanton misconduct or to medical care provided in a hospital, physician office, or other facility where medical services are provided on a routine or regular basis. 252
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(2) Only for purposes of medical care provided by an individual described in division (B) of this section in response to a need for such care precipitated by a disaster or emergency, the physician who supervises such individual pursuant to a physician supervisory plan approved by the state medical board under section 4730.17 of the Revised Code or pursuant to a similar 257
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plan required by a law of another state or the United States shall 263
not be liable in damages to any person in a tort or other civil 264
action for injury, death, or loss to person or property that 265
results from an act or omission of the individual who provided the 266
medical care. 267

Sec. 4730.06. (A) The physician assistant policy committee of 268
the state medical board shall review, and shall submit to the 269
board recommendations concerning, all of the following: 270

(1) Requirements for issuance of certificates to practice as 271
a physician assistant, including the educational requirements that 272
must be met to receive a certificate to practice; 273

(2) Existing and proposed rules pertaining to the practice of 274
physician assistants, the supervisory relationship between 275
physician assistants and supervising physicians, and the 276
administration and enforcement of this chapter; 277

(3) ~~Physician-delegated~~ In accordance with section 4730.38 of 278
the Revised Code, physician-delegated prescriptive authority for 279
physician assistants, ~~in accordance with~~ and proposed changes to 280
the physician assistant formulary the board adopts pursuant to 281
division (A)(1) of section 4730.38 4730.39 of the Revised Code; 282

(4) Application procedures and forms for certificates to 283
practice as a physician assistant, physician supervisory plans, 284
and supervision agreements; 285

(5) Fees required by this chapter for issuance and renewal of 286
certificates to practice as a physician assistant; 287

(6) Criteria to be included in applications submitted to the 288
board for approval of physician supervisory plans, including 289
criteria to be included in applications for approval to delegate 290
to physician assistants the performance of special services; 291

(7) Criteria to be included in supervision agreements 292

submitted to the board for approval and renewal of the board's approval;	293 294
(8) Any issue the board asks the committee to consider.	295
(B) In addition to the matters that are required to be reviewed under division (A) of this section, the committee may review, and may submit to the board recommendations concerning, either or both of the following:	296 297 298 299
(1) Quality assurance activities to be performed by a supervising physician and physician assistant under a quality assurance system established pursuant to division (F) of section 4730.21 of the Revised Code;	300 301 302 303
(2) The development and approval of one or more model physician supervisory plans and one or more models for a special services portion of the one or more model physician supervisory plans. The committee may submit recommendations for model plans that reflect various medical specialties.	304 305 306 307 308
(C) The board shall take into consideration all recommendations submitted by the committee. Not later than ninety days after receiving a recommendation from the committee, the board shall approve or disapprove the recommendation and notify the committee of its decision. If a recommendation is disapproved, the board shall inform the committee of its reasons for making that decision. The committee may resubmit the recommendation after addressing the concerns expressed by the board and modifying the disapproved recommendation accordingly. Not later than ninety days after receiving a resubmitted recommendation, the board shall approve or disapprove the recommendation. There is no limit on the number of times the committee may resubmit a recommendation for consideration by the board.	309 310 311 312 313 314 315 316 317 318 319 320 321
(D)(1) Except as provided in division (D)(2) of this section, the board may not take action regarding a matter that is subject	322 323

to the committee's review under division (A) or (B) of this 324
section unless the committee has made a recommendation to the 325
board concerning the matter. 326

(2) If the board submits to the committee a request for a 327
recommendation regarding a matter that is subject to the 328
committee's review under division (A) or (B) of this section, and 329
the committee does not provide a recommendation before the 330
sixty-first day after the request is submitted, the board may take 331
action regarding the matter without a recommendation. 332

Sec. 4730.09. (A) Under a physician supervisory plan approved 333
under section 4730.17 of the Revised Code, a physician assistant 334
may provide any or all of the following services without approval 335
by the state medical board as special services: 336

(1) Obtaining comprehensive patient histories; 337

(2) Performing physical examinations, including audiometry 338
screening, routine visual screening, and pelvic, rectal, and 339
genital-urinary examinations, when indicated; 340

(3) Ordering, performing, or ordering and performing routine 341
diagnostic procedures, as indicated; 342

(4) Identifying normal and abnormal findings on histories, 343
physical examinations, and commonly performed diagnostic studies; 344

(5) Assessing patients and developing and implementing 345
treatment plans for patients; 346

(6) Monitoring the effectiveness of therapeutic 347
interventions; 348

(7) Exercising physician-delegated prescriptive authority 349
pursuant to a certificate to prescribe issued under this chapter; 350

(8) Carrying out or relaying the supervising physician's 351
orders for the administration of medication, to the extent 352

permitted by law;	353
(9) Providing patient education;	354
(10) Instituting and changing orders on patient charts;	355
(11) Performing developmental screening examinations on children with regard to neurological, motor, and mental functions;	356 357
(12) Performing wound care management, suturing minor lacerations and removing the sutures, and incision and drainage of uncomplicated superficial abscesses;	358 359 360
(13) Removing superficial foreign bodies;	361
(14) Administering intravenous fluids;	362
(15) Inserting a foley or cudae catheter into the urinary bladder and removing the catheter;	363 364
(16) Removing intrauterine devices;	365
(17) Performing biopsies of superficial lesions;	366
(18) <u>(17)</u> Making appropriate referrals as directed by the supervising physician;	367 368
(19) Removing norplant capsules	369
<u>(18) Removing birth control devices;</u>	370
(20) <u>(19)</u> Performing penile duplex ultrasound;	371
(21) <u>(20)</u> Changing of a tracheostomy;	372
(22) <u>(21)</u> Performing bone marrow aspirations from the posterior iliac crest;	373 374
(23) <u>(22)</u> Performing bone marrow biopsies from the posterior iliac crest;	375 376
(24) <u>(23)</u> Performing cystograms;	377
(25) <u>(24)</u> Performing nephrostograms after physician placement of nephrostomy tubes;	378 379

(26) <u>(25)</u> Fitting or inserting family planning devices,	380
including intrauterine devices, diaphragms, and cervical caps;	381
(27) <u>(26)</u> Removing cervical polyps;	382
(28) <u>(27)</u> Performing nerve conduction testing;	383
(29) <u>(28)</u> Performing endometrial biopsies;	384
(30) <u>(29)</u> Inserting filiform and follower catheters;	385
(31) <u>(30)</u> Performing arthrocentesis of the knee;	386
(32) <u>(31)</u> Performing knee joint injections;	387
(33) <u>(32)</u> Performing endotracheal intubation with successful	388
completion of an advanced cardiac life support course;	389
(34) <u>(33)</u> Performing lumbar punctures;	390
(35) <u>(34)</u> In accordance with rules adopted by the board, using	391
light-based medical devices for the purpose of hair removal;	392
(36) <u>(35)</u> Administering, monitoring, or maintaining local	393
anesthesia, as defined in section 4730.091 of the Revised Code;	394
(37) <u>(36)</u> Applying or removing a cast or splint;	395
(38) <u>(37)</u> <u>Inserting or removing chest tubes;</u>	396
<u>(38) Prescribing or referring a patient to a physical</u>	397
<u>therapist for the purpose of receiving physical therapy, as</u>	398
<u>defined in section 4755.40 of the Revised Code;</u>	399
<u>(39)</u> Performing other services that are within the	400
supervising physician's normal course of practice and expertise,	401
if the services are included in any model physician supervisory	402
plan approved under section 4730.06 of the Revised Code or the	403
services are designated by the board by rule or other means as	404
services that are not subject to approval as special services.	405
(B) Under the policies of a health care facility, the	406
services a physician assistant may provide are limited to the	407

services the facility has authorized the physician assistant to 408
provide for the facility. The services a health care facility may 409
authorize a physician assistant to provide for the facility 410
include the following: 411

(1) Any or all of the services specified in division (A) of 412
this section; 413

(2) Assisting in surgery in the health care facility; 414

(3) Any other services permitted by the policies of the 415
health care facility, except that the facility may not authorize a 416
physician assistant to perform a service that is prohibited by 417
this chapter. 418

Sec. 4730.38. (A) ~~Not later than six months after the~~ 419
~~effective date~~ Except as provided in division (B) of this section, 420
the physician assistant policy committee of the state medical 421
board shall, at such times the committee determines to be 422
necessary, submit to the board ~~its initial~~ recommendations 423
regarding physician-delegated prescriptive authority for physician 424
assistants. The committee's recommendations shall address ~~all~~ both 425
of the following: 426

(1) Policy and procedures regarding physician-delegated 427
prescriptive authority, including the issuance of certificates to 428
prescribe under this chapter; 429

(2) ~~Subject to the limitations specified in section 4730.40~~ 430
~~of the Revised Code, a formulary listing the drugs and therapeutic~~ 431
~~devices by class and specific nomenclature that a supervising~~ 432
~~physician may include in the physician-delegated prescriptive~~ 433
~~authority granted to a physician assistant who holds a certificate~~ 434
~~to prescribe issued under this chapter;~~ 435

~~(3)~~ Any issue the committee considers necessary to assist the 436
board in fulfilling its duty to adopt rules governing 437

physician-delegated prescriptive authority, including the issuance 438
of certificates to prescribe. 439

~~(B) After the board's adoption of initial rules under section 440
4730.39 of the Revised Code, the committee shall conduct an annual 441
review of its recommendations regarding physician delegated 442
prescriptive authority. Based on its review, the committee shall 443
submit recommendations to the board as the committee considers 444
necessary Not less than every six months beginning on the first 445
day of June following the effective date of this amendment, the 446
committee shall review the physician assistant formulary the board 447
adopts pursuant to division (A)(1) of section 4730.39 of the 448
Revised Code and, to the extent it determines to be necessary, 449
submit recommendations proposing changes to the formulary. 450~~

(C) Recommendations submitted under this section are subject 451
to the procedures and time frames specified in division (C) of 452
section 4730.06 of the Revised Code. 453

Sec. 4730.39. ~~(A) Not later than six months after receiving 454
the initial recommendations of the physician assistant policy 455
committee submitted pursuant to division (A) of section 4730.38 of 456
the Revised Code, the The state medical board shall ~~adopt~~ do both 457
of the following: 458~~

~~(1) Adopt a formulary listing the drugs and therapeutic 459
devices by class and specific generic nomenclature that a 460
physician may include in the physician-delegated prescriptive 461
authority granted to a physician assistant who holds a certificate 462
to prescribe under this chapter; 463~~

~~(2) Adopt rules governing physician-delegated prescriptive 464
authority for physician assistants, including the issuance of 465
certificates to prescribe under this chapter. ~~The~~ 466~~

~~(B) The board's rules governing physician-delegated 467~~

prescriptive authority adopted pursuant to division (A)(2) of this 468
section shall be adopted in accordance with Chapter 119. of the 469
Revised Code and shall establish all of the following: 470

~~(1) Subject to the limitations specified in section 4730.40~~ 471
~~of the Revised Code, a formulary listing the drugs and therapeutic~~ 472
~~devices by class and specific generic nomenclature that a~~ 473
~~physician may include in the physician-delegated prescriptive~~ 474
~~authority granted to a physician assistant who holds a certificate~~ 475
~~to prescribe under this chapter;~~ 476

~~(2)~~ Requirements regarding the pharmacology courses that a 477
physician assistant is required to complete to receive a 478
certificate to prescribe; 479

~~(3)~~(2) Standards and procedures for the issuance and renewal 480
of certificates to prescribe to physician assistants; 481

~~(4)~~(3) Standards and procedures for the appropriate conduct 482
of the provisional period that a physician assistant is required 483
to complete pursuant to section 4730.45 of the Revised Code and 484
for determining whether a physician assistant has successfully 485
completed the provisional period; 486

~~(5)~~(4) A specific prohibition against prescribing any drug or 487
device to perform or induce an abortion; 488

~~(6)~~(5) Standards and procedures to be followed by a physician 489
assistant in personally furnishing samples of drugs or complete or 490
partial supplies of drugs to patients under section 4730.43 of the 491
Revised Code; 492

~~(7)~~(6) Any other requirements the board considers necessary 493
to implement the provisions of this chapter regarding 494
physician-delegated prescriptive authority and the issuance of 495
certificates to prescribe. 496

~~(B)~~(C)(1) After ~~adopting the initial rules~~ considering 497

recommendations submitted by the physician assistant policy committee pursuant to sections 4730.06 and 4730.38 of the Revised Code, the board shall ~~conduct an annual~~ review either or both of the ~~rules. Based~~ following, as appropriate according to the submitted recommendations:

(a) The formulary the board adopts under division (A)(1) of this section;

(b) The rules the board adopts under division (A)(2) of this section regarding physician-delegated prescriptive authority.

(2) Based on its review, the board shall make any necessary modifications to the formulary or rules.

~~(C) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. When adopting the initial rules, the board shall consider the recommendations of the physician assistant policy committee submitted pursuant to division (A) of section 4730.38 of the Revised Code. When making any modifications to the rules subsequent to its annual review of the rules, the board shall consider the committee's recommendations submitted pursuant to division (B) of section 4730.38 of the Revised Code.~~

Sec. 4730.40. (A) Subject to ~~divisions~~ division (B) and ~~(C)~~ of this section, the physician assistant formulary ~~established~~ adopted by the state medical board ~~in rules adopted~~ under section 4730.39 of the Revised Code ~~listing the drugs and therapeutic devices by class and specific nomenclature that a supervising physician may include in the physician delegated prescriptive authority granted to a physician assistant who holds a certificate to prescribe issued under this chapter~~ may include any or all of the following drugs:

(1) Schedule II, III, IV, and V controlled substances;

(2) Drugs that under state or federal law may be dispensed 528
only pursuant to a prescription by a licensed health professional 529
authorized to prescribe drugs, as defined in section 4729.01 of 530
the Revised Code; 531

(3) Any drug that is not a dangerous drug, as defined in 532
section 4729.01 of the Revised Code. 533

(B) The formulary ~~established in the board's rules adopted by~~ 534
~~the board~~ shall not include, and shall specify that it does not 535
include, ~~the following:~~ 536

~~(1) Any schedule II controlled substance;~~ 537

~~(2) Any any drug or device used to perform or induce an~~ 538
abortion. 539

~~(C) When adopting rules establishing the initial formulary,~~ 540
~~the board shall include provisions ensuring that a physician~~ 541
~~assistant who holds a certificate to prescribe issued under this~~ 542
~~chapter may be granted physician-delegated prescriptive authority~~ 543
~~for all drugs and therapeutic devices that may be prescribed on~~ 544
~~the effective date of the rules by a holder of a certificate to~~ 545
~~prescribe issued by the board of nursing under Chapter 4723. of~~ 546
~~the Revised Code, with the exception of schedule II controlled~~ 547
~~substances. To the extent permitted by division (A) of this~~ 548
~~section, the initial formulary may include additional drugs or~~ 549
~~therapeutic devices.~~ 550

Sec. 4730.42. (A) In granting physician-delegated 551
prescriptive authority to a particular physician assistant who 552
holds a certificate to prescribe issued under this chapter, the 553
supervising physician is subject to all of the following: 554

(1) The supervising physician shall not grant 555
physician-delegated prescriptive authority for any drug or 556
therapeutic device that is not listed on the physician assistant 557

formulary ~~established in rules~~ adopted under section 4730.39 of 558
the Revised Code as a drug or therapeutic device that may be 559
included in the physician-delegated prescriptive authority granted 560
to a physician assistant. 561

(2) The supervising physician shall not grant 562
physician-delegated prescriptive authority for any drug or device 563
that may be used to perform or induce an abortion. 564

(3) The supervising physician shall not grant 565
physician-delegated prescriptive authority in a manner that 566
exceeds the supervising physician's prescriptive authority. 567

(4) The supervising physician shall supervise the physician 568
assistant in accordance with all of the following: 569

(a) The supervision requirements specified in section 4730.21 570
of the Revised Code and, in the case of supervision provided 571
during a provisional period of physician-delegated prescriptive 572
authority, the supervision requirements specified in section 573
4730.45 of the Revised Code; 574

(b) The physician supervisory plan approved for the 575
supervising physician or the policies of the health care facility 576
in which the physician and physician assistant are practicing; 577

(c) The supervision agreement approved under section 4730.19 578
of the Revised Code that applies to the supervising physician and 579
the physician assistant. 580

(B)(1) The supervising physician of a physician assistant may 581
place conditions on the physician-delegated prescriptive authority 582
granted to the physician assistant. If conditions are placed on 583
that authority, the supervising physician shall maintain a written 584
record of the conditions and make the record available to the 585
state medical board on request. 586

(2) The conditions that a supervising physician may place on 587

the physician-delegated prescriptive authority granted to a 588
physician assistant include the following: 589

(a) Identification by class and specific generic nomenclature 590
of drugs and therapeutic devices that the physician chooses not to 591
permit the physician assistant to prescribe; 592

(b) Limitations on the dosage units or refills that the 593
physician assistant is authorized to prescribe; 594

(c) Specification of circumstances under which the physician 595
assistant is required to refer patients to the supervising 596
physician or another physician when exercising physician-delegated 597
prescriptive authority; 598

(d) Responsibilities to be fulfilled by the physician in 599
supervising the physician assistant that are not otherwise 600
specified in the physician supervisory plan or otherwise required 601
by this chapter. 602

Sec. 4730.44. (A) A physician assistant seeking a certificate 603
to prescribe shall submit to the state medical board a written 604
application on a form prescribed and supplied by the board. The 605
application shall include all of the following information: 606

(1) The applicant's name, residential address, business 607
address, if any, and social security number; 608

(2) Evidence of holding a valid certificate to practice as a 609
physician assistant issued under this chapter; 610

(3) Either of the following: 611

(a) Satisfactory proof that the applicant meets the 612
requirements specified in section 4730.46 of the Revised Code to 613
participate in a provisional period of physician-delegated 614
prescriptive authority or satisfactory proof of successful 615
completion of the provisional period, evidenced by a letter or 616
copy of a letter attesting to the successful completion written by 617

a supervising physician of the physician assistant at the time of completion; 618
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(b) Satisfactory proof that the applicant has practiced as a physician assistant in another state or was credentialed or employed as a physician assistant by the United States government, holds a master's or higher degree that was obtained from a program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board, and held valid authority issued by the other state or the United States government to prescribe therapeutic devices and drugs, including at least some controlled substances, evidenced by an affidavit issued by an appropriate agency or office of the other state or the United States government attesting to the prescriptive authority described in division (A)(3)(b) of this section. 620
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(4) Any other information the board requires. 633

(B) At the time of making application for a certificate to prescribe, the applicant shall pay the board a fee of one hundred dollars, no part of which shall be returned. The fees shall be deposited in accordance with section 4731.24 of the Revised Code. 634
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(C)(1) The board shall review all applications received. If an application is complete and the board determines that the applicant meets the requirements for a certificate to prescribe, the board shall, subject to division (C)(2) of this section, issue the certificate to the applicant. ~~The~~ 638
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(2) The initial certificate to prescribe issued to an applicant who meets the requirements of division (A)(3)(a) of this section shall be issued as a provisional certificate to prescribe. 643
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Sec. 4730.45. (A) A provisional certificate to prescribe issued under division (C)(2) of section 4730.44 of the Revised 646
647

Code authorizes the physician assistant holding the certificate to 648
participate in a provisional period of physician-delegated 649
prescriptive authority. The physician assistant shall successfully 650
complete the provisional period as a condition of receiving a new 651
certificate to prescribe. 652

(B) The provisional period shall be conducted by one or more 653
supervising physicians in accordance with rules adopted under 654
section 4730.39 of the Revised Code. When supervising a physician 655
assistant who is completing the first five hundred hours of a 656
provisional period, the supervising physician shall provide 657
on-site supervision of the physician assistant's exercise of 658
physician-delegated prescriptive authority. 659

The provisional period shall last not longer than one year, 660
unless it is extended for not longer than one additional year at 661
the direction of a supervising physician. The physician assistant 662
shall not be required to participate in the provisional period for 663
more than ~~one thousand eight hundred~~ one thousand eight hundred 664
hours, except when a supervising physician has extended the 665
physician assistant's provisional period. 666

(C) If a physician assistant does not successfully complete 667
the provisional period, each supervising physician shall cease 668
granting physician-delegated prescriptive authority to the 669
physician assistant. The supervising physician with primary 670
responsibility for conducting the provisional period shall 671
promptly notify the state medical board that the physician 672
assistant did not successfully complete the provisional period and 673
the board shall revoke the certificate. 674

(D) A physician assistant who successfully completes a 675
provisional period shall not be required to complete another 676
provisional period as a condition of being eligible to be granted 677
physician-delegated prescriptive authority by a supervising 678

physician who was not involved in the conduct of the provisional 679
period. 680

Sec. 4730.53. A physician assistant who provides services 681
under the medicaid program established under Chapter 5111. of the 682
Revised Code shall enter into a medicaid provider agreement with 683
the department of job and family services. When submitting a claim 684
for reimbursement from the medicaid program, the physician 685
assistant shall use only the medicaid provider number the 686
department assigns to the physician assistant. 687

Sec. 4755.48. (A) No person shall employ fraud or deception 688
in applying for or securing a license to practice physical therapy 689
or to be a physical therapist assistant. 690

(B) No person shall practice or in any way imply or claim to 691
the public by words, actions, or the use of letters as described 692
in division (C) of this section to be able to practice physical 693
therapy or to provide physical therapy services, including 694
practice as a physical therapist assistant, unless the person 695
holds a valid license under sections 4755.40 to 4755.56 of the 696
Revised Code or except for submission of claims as provided in 697
section 4755.56 of the Revised Code. 698

(C) No person shall use the words or letters, physical 699
therapist, physical therapy, physical therapy services, 700
physiotherapist, physiotherapy, physiotherapy services, licensed 701
physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., 702
D.P.T., M.S.P.T., P.T.A., physical therapy assistant, physical 703
therapist assistant, physical therapy technician, licensed 704
physical therapist assistant, L.P.T.A., R.P.T.A., or any other 705
letters, words, abbreviations, or insignia, indicating or implying 706
that the person is a physical therapist or physical therapist 707
assistant without a valid license under sections 4755.40 to 708

4755.56 of the Revised Code. 709

(D) No person who practices physical therapy or assists in 710
the provision of physical therapy treatments under the supervision 711
of a physical therapist shall fail to display the person's current 712
license granted under sections 4755.40 to 4755.56 of the Revised 713
Code in a conspicuous location in the place where the person 714
spends the major part of the person's time so engaged. 715

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 716
Code shall affect or interfere with the performance of the duties 717
of any physical therapist or physical therapist assistant in 718
active service in the army, navy, coast guard, marine corps, air 719
force, public health service, or marine hospital service of the 720
United States, while so serving. 721

(F) Nothing in sections 4755.40 to 4755.56 of the Revised 722
Code shall prevent or restrict the activities or services of a 723
person ~~pursing~~ pursuing a course of study leading to a degree in 724
physical therapy in an accredited or approved educational program 725
if the activities or services constitute a part of a supervised 726
course of study and the person is designated by a title that 727
clearly indicates the person's status as a student. 728

(G) ~~No~~ (1) Except as provided in division (G)(2) of this 729
section and subject to division (H) of this section, no person 730
shall practice physical therapy other than on the prescription of, 731
or the referral of a patient by, a person who is licensed in this 732
or another state to ~~practice~~ do at least one of the following: 733

(a) Practice medicine and surgery, chiropractic, dentistry, 734
osteopathic medicine and surgery, podiatric medicine and surgery, 735
~~or to practice;~~ 736

(b) Practice as a physician assistant; 737

(c) Practice nursing as a certified registered nurse 738
anesthetist, clinical nurse specialist, certified nurse-midwife, 739

or certified nurse practitioner, ~~within the scope of such~~ 740
~~practices, and whose license is in good standing, unless either of~~ 741
~~the following conditions is met:.~~ 742

(1)(2) The prohibition in division (G)(1) of this section on 743
practicing physical therapy other than on the prescription of, or 744
the referral of a patient by, any of the persons described in that 745
division does not apply if either of the following applies to the 746
person: 747

(a) The person holds a master's or doctorate degree from a 748
professional physical therapy program that is accredited by a 749
national physical therapy accreditation agency recognized by the 750
United States department of education. 751

(2)(b) On or before December 31, 2004, the person has 752
completed at least two years of practical experience as a licensed 753
physical therapist. 754

(H) To be authorized to prescribe physical therapy or refer a 755
patient to a physical therapist for physical therapy, a person 756
described in division (G)(1) of this section must be in good 757
standing with the relevant licensing board in this state or the 758
state in which the person is licensed and must act only within the 759
person's scope of practice. 760

(I) In the prosecution of any person for violation of 761
division (B) or (C) of this section, it is not necessary to allege 762
or prove want of a valid license to practice physical therapy or 763
to practice as a physical therapist assistant, but such matters 764
shall be a matter of defense to be established by the accused. 765

Sec. 4755.481. (A) If a physical therapist evaluates and 766
treats a patient without the prescription of, or the referral of 767
the patient by, a person ~~who is licensed to practice medicine and~~ 768
~~surgery, chiropractic, dentistry, osteopathic medicine and~~ 769

~~surgery, podiatric medicine and surgery, or nursing as a certified~~ 770
~~registered nurse anesthetist, clinical nurse specialist, certified~~ 771
~~nurse midwife, or certified nurse practitioner~~ described in 772
division (G)(1) of section 4755.48 of the Revised Code, all of the 773
following apply: 774

(1) The physical therapist shall, upon consent of the 775
patient, inform the ~~patient's physician, chiropractor, dentist,~~ 776
~~podiatrist, certified registered nurse anesthetist, clinical nurse~~ 777
~~specialist, certified nurse midwife, or certified nurse~~ 778
~~practitioner~~ relevant person described in division (G)(1) of 779
section 4755.48 of the Revised Code of the evaluation not later 780
than five business days after the evaluation is made. 781

(2) If the physical therapist determines, based on reasonable 782
evidence, that no substantial progress has been made with respect 783
to that patient during the thirty-day period immediately following 784
the date of the patient's initial visit with the physical 785
therapist, the physical therapist shall consult with or refer the 786
patient to a ~~licensed physician, chiropractor, dentist,~~ 787
~~podiatrist, certified registered nurse anesthetist, clinical nurse~~ 788
~~specialist, certified nurse midwife, or certified nurse~~ 789
~~practitioner~~ person described in division (G)(1) of section 790
4755.48 of the Revised Code, unless either of the following 791
applies: 792

(a) The evaluation, treatment, or services are being provided 793
for fitness, wellness, or prevention purposes. 794

(b) The patient previously was diagnosed with chronic, 795
neuromuscular, or developmental conditions and the evaluation, 796
treatment, or services are being provided for problems or symptoms 797
associated with one or more of those previously diagnosed 798
conditions. 799

(3) If the physical therapist determines that orthotic 800

devices are necessary to treat the patient, the physical therapist 801
shall be limited to the application of the following orthotic 802
devices: 803

(a) Upper extremity adaptive equipment used to facilitate the 804
activities of daily living; 805

(b) Finger splints; 806

(c) Wrist splints; 807

(d) Prefabricated elastic or fabric abdominal supports with 808
or without metal or plastic reinforcing stays and other 809
prefabricated soft goods requiring minimal fitting; 810

(e) Nontherapeutic accommodative inlays; 811

(f) Shoes that are not manufactured or modified for a 812
particular individual; 813

(g) Prefabricated foot care products; 814

(h) Custom foot orthotics; 815

(i) Durable medical equipment. 816

(4) If, at any time, the physical therapist has reason to 817
believe that the patient has symptoms or conditions that require 818
treatment or services beyond the scope of practice of a physical 819
therapist, the physical therapist shall refer the patient to a 820
licensed health care practitioner acting within the practitioner's 821
scope of practice. 822

(B) Nothing in sections 4755.40 to 4755.56 of the Revised 823
Code shall be construed to require reimbursement under any health 824
insuring corporation policy, contract, or agreement, any sickness 825
and accident insurance policy, the medical assistance program as 826
defined in section 5111.01 of the Revised Code, or the health 827
partnership program or qualified health plans established pursuant 828
to sections 4121.44 to 4121.442 of the Revised Code, for any 829
physical therapy service rendered without the prescription of, or 830

the referral of the patient by, a ~~licensed physician,~~ 831
~~chiropractor, dentist, podiatrist, certified registered nurse~~ 832
~~anesthetist, clinical nurse specialist, certified nurse midwife,~~ 833
~~or certified nurse practitioner~~ person described in division 834
(G)(1) of section 4755.48 of the Revised Code. 835

(C) For purposes of this section, "business day" means any 836
calendar day that is not a Saturday, Sunday, or legal holiday. 837
"Legal holiday" has the same meaning as in section 1.14 of the 838
Revised Code. 839

Sec. 5111.0212. For any service a physician assistant 840
provides to a medicaid recipient in accordance with Chapter 4730. 841
of the Revised Code, the medicaid program shall reimburse the 842
physician assistant an amount that is one hundred per cent of the 843
amount, as contained in the medicaid fee schedule determined 844
pursuant to rules adopted under section 5111.02 of the Revised 845
Code, established as the medicaid maximum for the service. 846

Section 2. That existing sections 2105.35, 2108.40, 4730.06, 847
4730.09, 4730.38, 4730.39, 4730.40, 4730.42, 4730.44, 4730.45, 848
4755.48, and 4755.481 and section 4730.401 of the Revised Code are 849
hereby repealed. 850