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**Sub. H. B. No. 93**

**Representatives Burke, Johnson**

**Cosponsors: Speaker Batchelder Representatives Bulp, Adams, J., Boose, Grossman, Hackett, Hottinger, Huffman, Peterson, Pillich, Rosenberger, Ruhl, Uecker, Balderson, Gardner, McKenney, Gonzales, Goodwin, Hagan, R., Garland, Fende, Sears, Schuring, Wachtmann, Barnes, Duffey, Antonio, Adams, R., Amstutz, Anielski, Ashford, Baker, Beck, Blair, Blessing, Brenner, Buchy, Budish, Butler, Carey, Carney, Celeste, Clyde, Coley, Combs, Damschroder, DeGeeter, Derickson, Dovilla, Driehaus, Fedor, Foley, Gerberry, Goyal, Hagan, C., Hall, Hayes, Heard, Henne, Kozlowski, Landis, Letson, Luckie, Lundy, Mallory, Martin, McClain, McGregor, Mecklenborg, Milkovich, Murray, Newbold, O'Brien, Patmon, Phillips, Ramos, Reece, Roegner, Slaby, Slesnick, Sprague, Stautberg, Stebelton, Stinziano, Szollosi, Thompson, Weddington, Williams, Winburn, Young, Yuko**

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**A B I L L**

To amend sections 3719.08, 4715.30, 4729.01, 1  
4729.071, 4729.29, 4729.51, 4729.54, 4729.541, 2  
4729.55, 4729.75, 4729.77, 4729.78, 4729.79, 3  
4729.80, 4729.81, 4729.82, 4729.83, 4729.99, 4  
4731.052, 4731.22, 4731.283, 4776.02, 4776.04, and 5  
5111.172; to amend, for the purpose of adopting 6  
new section numbers as indicated in parentheses, 7  
sections 4729.79 (4729.80), 4729.80 (4729.81), 8  
4729.81 (4729.82), 4729.82 (4729.83), 4729.83 9  
(4729.84), and 4729.84 (4729.85); and to enact new 10  
section 4729.79 and sections 109.90, 313.212, 11

3719.031, 3793.22, 4121.50, 4715.302, 4723.487, 12  
4725.092, 4729.162, 4729.291, 4729.552, 4729.571, 13  
4729.69, 4729.86, 4730.53, 4731.054, 4731.055, 14  
4731.241, 5111.085, 5111.179, and 5111.1710 of the 15  
Revised Code to establish and modify laws 16  
regarding the prevention of prescription drug 17  
abuse and to declare an emergency. 18

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

**Section 1.** That sections 3719.08, 4715.30, 4729.01, 4729.071, 19  
4729.29, 4729.51, 4729.54, 4729.541, 4729.55, 4729.75, 4729.77, 20  
4729.78, 4729.79, 4729.80, 4729.81, 4729.82, 4729.83, 4729.99, 21  
4731.052, 4731.22, 4731.283, 4776.02, 4776.04, and 5111.172 be 22  
amended; sections 4729.79 (4729.80), 4729.80 (4729.81), 4729.81 23  
(4729.82), 4729.82 (4729.83), 4729.83 (4729.84), and 4729.84 24  
(4729.85) be amended for the purpose of adopting new section 25  
numbers as indicated in parentheses; and new section 4729.79 and 26  
sections 109.90, 313.212, 3719.031, 3793.22, 4121.50, 4715.302, 27  
4723.487, 4725.092, 4729.162, 4729.291, 4729.552, 4729.571, 28  
4729.69, 4729.86, 4730.53, 4731.054, 4731.055, 4731.241, 5111.085, 29  
5111.179, and 5111.1710 of the Revised Code be enacted to read as 30  
follows: 31

**Sec. 109.90.** (A) The attorney general shall collaborate with 32  
the state board of pharmacy and director of alcohol and drug 33  
addiction services in the establishment and administration of a 34  
drug take-back program, as provided under section 4729.69 of the 35  
Revised Code. The office of the attorney general is solely 36  
responsible for the costs incurred in the establishment and 37  
administration of the program. 38

(B) The attorney general may accept grants, gifts, or 39  
donations for purposes of the program. Money received under this 40

division or section 3793.22 or 4729.69 of the Revised Code shall 41  
be deposited into the state treasury to the credit of the drug 42  
take-back program fund, which is hereby created. Money credited to 43  
the fund shall be used solely for purposes of the program. 44

**Sec. 313.212.** If the coroner determines that a drug overdose 45  
is the cause of death of a person, the coroner may provide a 46  
notice of the death to the state medical board. The coroner may 47  
include in the notice any information relating to the drug that 48  
resulted in the overdose, including the individual authorized 49  
under Chapter 4731. of the Revised Code to practice medicine or 50  
surgery, osteopathic medicine or surgery, or podiatric medicine or 51  
surgery who prescribed the drug to the decedent. 52

**Sec. 3719.031.** If the state board of pharmacy determines that 53  
there is clear and convincing evidence that the method used by a 54  
wholesaler of controlled substances licensed under section 55  
3719.021 of the Revised Code to distribute controlled substances 56  
presents a danger of immediate and serious harm to others, the 57  
board may suspend the wholesaler's license without a hearing. The 58  
board shall follow the procedure for suspension without a prior 59  
hearing in section 119.07 of the Revised Code. The suspension 60  
shall remain in effect, unless removed by the board, until the 61  
board's final adjudication order becomes effective, except that if 62  
the board does not issue its final adjudication order within 63  
ninety days after the hearing, the suspension shall be void on the 64  
ninety-first day after the suspension. 65

**Sec. 3719.08.** (A) Whenever a manufacturer sells a controlled 66  
substance, and whenever a wholesaler sells a controlled substance 67  
in a package the wholesaler has prepared, the manufacturer or 68  
wholesaler shall securely affix to each package in which the 69  
controlled substance is contained a label showing in legible 70

English the name and address of the vendor and the quantity, kind, 71  
and form of controlled substance contained therein. No person, 72  
except a pharmacist for the purpose of dispensing a controlled 73  
substance upon a prescription shall alter, deface, or remove any 74  
label so affixed. 75

(B) Except as provided in division (C) of this section, when 76  
a pharmacist dispenses any controlled substance on a prescription 77  
for use by a patient, or supplies a controlled substance to a 78  
licensed health professional authorized to prescribe drugs for use 79  
by the professional in personally furnishing patients with 80  
controlled substances, the pharmacist shall affix to the container 81  
in which the controlled substance is dispensed or supplied a label 82  
showing the following: 83

(1) The name and address of the pharmacy dispensing or 84  
supplying the controlled substance; 85

(2) The name of the patient for whom the controlled substance 86  
is prescribed and, if the patient is an animal, the name of the 87  
owner and the species of the animal; 88

(3) The name of the prescriber; 89

(4) All directions for use stated on the prescription or 90  
provided by the prescriber; 91

(5) The date on which the controlled substance was dispensed 92  
or supplied; 93

(6) The name, quantity, and strength of the controlled 94  
substance and, if applicable, the name of the distributor or 95  
manufacturer. 96

(C) The requirements of division (B) of this section do not 97  
apply when a controlled substance is prescribed or supplied for 98  
administration to an ultimate user who is institutionalized. 99

(D) A licensed health professional authorized to prescribe 100

drugs who personally furnishes a controlled substance to a patient 101  
shall comply with division ~~(B)~~(A) of section ~~4729.29~~ 4729.291 of 102  
the Revised Code with respect to labeling and packaging of the 103  
controlled substance. 104

(E) No person shall alter, deface, or remove any label 105  
affixed pursuant to this section as long as any of the original 106  
contents remain. 107

(F) Every label for a schedule II, III, or IV controlled 108  
substance shall contain the following warning: 109

"Caution: federal law prohibits the transfer of this drug to 110  
any person other than the patient for whom it was prescribed." 111

Sec. 3793.22. (A) The director of alcohol and drug addiction 112  
services shall collaborate with the state board of pharmacy and 113  
attorney general in the establishment and administration of a drug 114  
take-back program, as provided under section 4729.69 of the 115  
Revised Code. 116

(B) The department may accept grants, gifts, or donations for 117  
purposes of the program. Money received under this division shall 118  
be deposited into the drug take-back program fund established 119  
under section 109.90 of the Revised Code. 120

Sec. 4121.50. Not later than July 1, 2012, the administrator 121  
of workers' compensation shall adopt rules in accordance with 122  
Chapter 119. of the Revised Code to implement a coordinated 123  
services program for claimants under this chapter or Chapter 124  
4123., 4127., or 4131. of the Revised Code who are found to have 125  
obtained prescription drugs that were reimbursed pursuant to an 126  
order of the administrator or of the industrial commission or by a 127  
self-insuring employer but were obtained at a frequency or in an 128  
amount that is not medically necessary. The program shall be 129  
implemented in a manner that is substantially similar to the 130

coordinated services programs established for the medicaid program 131  
under section 5111.085 and 5111.179 of the Revised Code. 132

**Sec. 4715.30.** (A) An applicant for or holder of a certificate 133  
or license issued under this chapter is subject to disciplinary 134  
action by the state dental board for any of the following reasons: 135  
136

(1) Employing or cooperating in fraud or material deception 137  
in applying for or obtaining a license or certificate; 138

(2) Obtaining or attempting to obtain money or anything of 139  
value by intentional misrepresentation or material deception in 140  
the course of practice; 141

(3) Advertising services in a false or misleading manner or 142  
violating the board's rules governing time, place, and manner of 143  
advertising; 144

(4) Conviction of a misdemeanor committed in the course of 145  
practice or of any felony; 146

(5) Engaging in lewd or immoral conduct in connection with 147  
the provision of dental services; 148

(6) Selling, prescribing, giving away, or administering drugs 149  
for other than legal and legitimate therapeutic purposes, or 150  
conviction of violating any law of this state or the federal 151  
government regulating the possession, distribution, or use of any 152  
drug; 153

(7) Providing or allowing dental hygienists, expanded 154  
function dental auxiliaries, or other practitioners of auxiliary 155  
dental occupations working under the certificate or license 156  
holder's supervision, or a dentist holding a temporary limited 157  
continuing education license under division (C) of section 4715.16 158  
of the Revised Code working under the certificate or license 159  
holder's direct supervision, to provide dental care that departs 160

from or fails to conform to accepted standards for the profession, 161  
whether or not injury to a patient results; 162

(8) Inability to practice under accepted standards of the 163  
profession because of physical or mental disability, dependence on 164  
alcohol or other drugs, or excessive use of alcohol or other 165  
drugs; 166

(9) Violation of any provision of this chapter or any rule 167  
adopted thereunder; 168

(10) Failure to use universal blood and body fluid 169  
precautions established by rules adopted under section 4715.03 of 170  
the Revised Code; 171

(11) Waiving the payment of all or any part of a deductible 172  
or copayment that a patient, pursuant to a health insurance or 173  
health care policy, contract, or plan that covers dental services, 174  
would otherwise be required to pay if the waiver is used as an 175  
enticement to a patient or group of patients to receive health 176  
care services from that provider-;i 177

(12) Advertising that the certificate or license holder will 178  
waive the payment of all or any part of a deductible or copayment 179  
that a patient, pursuant to a health insurance or health care 180  
policy, contract, or plan that covers dental services, would 181  
otherwise be required to pay; 182

(13) Failure to comply with section 4729.79 of the Revised 183  
Code, unless the state board of pharmacy no longer maintains a 184  
drug database pursuant to section 4729.75 of the Revised Code. 185

(B) A manager, proprietor, operator, or conductor of a dental 186  
facility shall be subject to disciplinary action if any dentist, 187  
dental hygienist, expanded function dental auxiliary, or qualified 188  
personnel providing services in the facility is found to have 189  
committed a violation listed in division (A) of this section and 190  
the manager, proprietor, operator, or conductor knew of the 191

violation and permitted it to occur on a recurring basis.	192
(C) Subject to Chapter 119. of the Revised Code, the board	193
may take one or more of the following disciplinary actions if one	194
or more of the grounds for discipline listed in divisions (A) and	195
(B) of this section exist:	196
(1) Censure the license or certificate holder;	197
(2) Place the license or certificate on probationary status	198
for such period of time the board determines necessary and require	199
the holder to:	200
(a) Report regularly to the board upon the matters which are	201
the basis of probation;	202
(b) Limit practice to those areas specified by the board;	203
(c) Continue or renew professional education until a	204
satisfactory degree of knowledge or clinical competency has been	205
attained in specified areas.	206
(3) Suspend the certificate or license;	207
(4) Revoke the certificate or license.	208
Where the board places a holder of a license or certificate	209
on probationary status pursuant to division (C)(2) of this	210
section, the board may subsequently suspend or revoke the license	211
or certificate if it determines that the holder has not met the	212
requirements of the probation or continues to engage in activities	213
that constitute grounds for discipline pursuant to division (A) or	214
(B) of this section.	215
Any order suspending a license or certificate shall state the	216
conditions under which the license or certificate will be	217
restored, which may include a conditional restoration during which	218
time the holder is in a probationary status pursuant to division	219
(C)(2) of this section. The board shall restore the license or	220
certificate unconditionally when such conditions are met.	221

(D) If the physical or mental condition of an applicant or a license or certificate holder is at issue in a disciplinary proceeding, the board may order the license or certificate holder to submit to reasonable examinations by an individual designated or approved by the board and at the board's expense. The physical examination may be conducted by any individual authorized by the Revised Code to do so, including a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife. Any written documentation of the physical examination shall be completed by the individual who conducted the examination.

Failure to comply with an order for an examination shall be grounds for refusal of a license or certificate or summary suspension of a license or certificate under division (E) of this section.

(E) If the board has reason to believe that a license or certificate holder represents a clear and immediate danger to the public health and safety if the holder is allowed to continue to practice, or if the holder has failed to comply with an order under division (D) of this section, the board may apply to the court of common pleas of the county in which the holder resides for an order temporarily suspending the holder's license or certificate, without a prior hearing being afforded by the board, until the board conducts an adjudication hearing pursuant to Chapter 119. of the Revised Code. If the court temporarily suspends a holder's license or certificate, the board shall give written notice of the suspension personally or by certified mail to the license or certificate holder. Such notice shall include specific facts and reasons for finding a clear and immediate danger to the public health and safety and shall inform the license or certificate holder of the right to a hearing pursuant to Chapter 119. of the Revised Code.

(F) Any holder of a certificate or license issued under this chapter who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for intervention in lieu of conviction entered against the holder in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for treatment or intervention in lieu of conviction entered against the holder in another jurisdiction for any substantially equivalent criminal offense, is automatically suspended from practice under this chapter in this state and any certificate or license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea, conviction, or judicial finding, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's certificate or license under this division shall be considered practicing without a certificate or license. The board shall notify the suspended individual of the suspension of the individual's certificate or license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate or license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the individual's certificate or license.

(G) Notwithstanding divisions (A)(11) and (12) of this section, sanctions shall not be imposed against any licensee who waives deductibles and copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. 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. Such consent 286  
shall be made available to the board upon request. 287

(2) For professional services rendered to any other person 288  
licensed pursuant to this chapter to the extent allowed by this 289  
chapter and the rules of the board. 290

(H) In no event shall the board consider or raise during a 291  
hearing required by Chapter 119. of the Revised Code the 292  
circumstances of, or the fact that the board has received, one or 293  
more complaints about a person unless the one or more complaints 294  
are the subject of the hearing or resulted in the board taking an 295  
action authorized by this section against the person on a prior 296  
occasion. 297

Sec. 4715.302. (A) As used in this section, "drug database" 298  
means the database established and maintained by the state board 299  
of pharmacy pursuant to section 4729.75 of the Revised Code. 300

(B) The state dental board shall adopt rules in accordance 301  
with Chapter 119. of the Revised Code that establish standards and 302  
procedures to be followed by a dentist regarding the review of 303  
patient information available through the drug database. 304

(C) This section and the rules adopted under it do not apply 305  
if the state board of pharmacy no longer maintains the drug 306  
database. 307

Sec. 4723.487. (A) As used in this section, "drug database" 308  
means the database established and maintained by the state board 309  
of pharmacy pursuant to section 4729.75 of the Revised Code. 310

(B) The board of nursing shall adopt rules in accordance with 311  
Chapter 119. of the Revised Code that establish standards and 312  
procedures to be followed by an advanced practice nurse with a 313  
certificate to prescribe issued under section 4723.48 of the 314  
Revised Code regarding the review of patient information available 315

through the drug database. 316

(C) This section and the rules adopted under it do not apply 317  
if the state board of pharmacy no longer maintains the drug 318  
database. 319

**Sec. 4725.092.** (A) As used in this section, "drug database" 320  
means the database established and maintained by the state board 321  
of pharmacy pursuant to section 4729.75 of the Revised Code. 322

(B) The state board of optometry shall adopt rules in 323  
accordance with Chapter 119. of the Revised Code that establish 324  
standards and procedures to be followed by an optometrist who 325  
holds a therapeutic pharmaceutical agents certificate regarding 326  
the review of patient information available through the drug 327  
database. 328

(C) This section and the rules adopted under it do not apply 329  
if the state board of pharmacy no longer maintains the drug 330  
database. 331

**Sec. 4729.01.** As used in this chapter: 332

(A) "Pharmacy," except when used in a context that refers to 333  
the practice of pharmacy, means any area, room, rooms, place of 334  
business, department, or portion of any of the foregoing where the 335  
practice of pharmacy is conducted. 336

(B) "Practice of pharmacy" means providing pharmacist care 337  
requiring specialized knowledge, judgment, and skill derived from 338  
the principles of biological, chemical, behavioral, social, 339  
pharmaceutical, and clinical sciences. As used in this division, 340  
"pharmacist care" includes the following: 341

(1) Interpreting prescriptions; 342

(2) Dispensing drugs and drug therapy related devices; 343

(3) Compounding drugs; 344

(4) Counseling individuals with regard to their drug therapy, 345  
recommending drug therapy related devices, and assisting in the 346  
selection of drugs and appliances for treatment of common diseases 347  
and injuries and providing instruction in the proper use of the 348  
drugs and appliances; 349

(5) Performing drug regimen reviews with individuals by 350  
discussing all of the drugs that the individual is taking and 351  
explaining the interactions of the drugs; 352

(6) Performing drug utilization reviews with licensed health 353  
professionals authorized to prescribe drugs when the pharmacist 354  
determines that an individual with a prescription has a drug 355  
regimen that warrants additional discussion with the prescriber; 356

(7) Advising an individual and the health care professionals 357  
treating an individual with regard to the individual's drug 358  
therapy; 359

(8) Acting pursuant to a consult agreement with a physician 360  
authorized under Chapter 4731. of the Revised Code to practice 361  
medicine and surgery or osteopathic medicine and surgery, if an 362  
agreement has been established with the physician; 363

(9) Engaging in the administration of immunizations to the 364  
extent authorized by section 4729.41 of the Revised Code. 365

(C) "Compounding" means the preparation, mixing, assembling, 366  
packaging, and labeling of one or more drugs in any of the 367  
following circumstances: 368

(1) Pursuant to a prescription issued by a licensed health 369  
professional authorized to prescribe drugs; 370

(2) Pursuant to the modification of a prescription made in 371  
accordance with a consult agreement; 372

(3) As an incident to research, teaching activities, or 373  
chemical analysis; 374

(4) In anticipation of orders for drugs pursuant to 375  
prescriptions, based on routine, regularly observed dispensing 376  
patterns; 377

(5) Pursuant to a request made by a licensed health 378  
professional authorized to prescribe drugs for a drug that is to 379  
be used by the professional for the purpose of direct 380  
administration to patients in the course of the professional's 381  
practice, if all of the following apply: 382

(a) At the time the request is made, the drug is not 383  
commercially available regardless of the reason that the drug is 384  
not available, including the absence of a manufacturer for the 385  
drug or the lack of a readily available supply of the drug from a 386  
manufacturer. 387

(b) A limited quantity of the drug is compounded and provided 388  
to the professional. 389

(c) The drug is compounded and provided to the professional 390  
as an occasional exception to the normal practice of dispensing 391  
drugs pursuant to patient-specific prescriptions. 392

(D) "Consult agreement" means an agreement to manage an 393  
individual's drug therapy that has been entered into by a 394  
pharmacist and a physician authorized under Chapter 4731. of the 395  
Revised Code to practice medicine and surgery or osteopathic 396  
medicine and surgery. 397

(E) "Drug" means: 398

(1) Any article recognized in the United States pharmacopoeia 399  
and national formulary, or any supplement to them, intended for 400  
use in the diagnosis, cure, mitigation, treatment, or prevention 401  
of disease in humans or animals; 402

(2) Any other article intended for use in the diagnosis, 403  
cure, mitigation, treatment, or prevention of disease in humans or 404

animals;	405
(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	406 407
(4) Any article intended for use as a component of any article specified in division (E)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.	408 409 410 411
(F) "Dangerous drug" means any of the following:	412
(1) Any drug to which either of the following applies:	413
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;	414 415 416 417 418 419 420
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	421 422
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	423 424 425
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.	426 427 428
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	429 430
(H) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.	431 432 433 434

(I) "Licensed health professional authorized to prescribe drugs" or "prescriber" means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

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

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

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

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

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

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

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

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

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

(M) "Retail seller" means any person that sells any dangerous

drug to consumers without assuming control over and responsibility 465  
for its administration. Mere advice or instructions regarding 466  
administration do not constitute control or establish 467  
responsibility. 468

(N) "Price information" means the price charged for a 469  
prescription for a particular drug product and, in an easily 470  
understandable manner, all of the following: 471

(1) The proprietary name of the drug product; 472

(2) The established (generic) name of the drug product; 473

(3) The strength of the drug product if the product contains 474  
a single active ingredient or if the drug product contains more 475  
than one active ingredient and a relevant strength can be 476  
associated with the product without indicating each active 477  
ingredient. The established name and quantity of each active 478  
ingredient are required if such a relevant strength cannot be so 479  
associated with a drug product containing more than one 480  
ingredient. 481

(4) The dosage form; 482

(5) The price charged for a specific quantity of the drug 483  
product. The stated price shall include all charges to the 484  
consumer, including, but not limited to, the cost of the drug 485  
product, professional fees, handling fees, if any, and a statement 486  
identifying professional services routinely furnished by the 487  
pharmacy. Any mailing fees and delivery fees may be stated 488  
separately without repetition. The information shall not be false 489  
or misleading. 490

(O) "Wholesale distributor of dangerous drugs" means a person 491  
engaged in the sale of dangerous drugs at wholesale and includes 492  
any agent or employee of such a person authorized by the person to 493  
engage in the sale of dangerous drugs at wholesale. 494

(P) "Manufacturer of dangerous drugs" means a person, other than a pharmacist, who manufactures dangerous drugs and who is engaged in the sale of those dangerous drugs within this state.

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

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

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

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

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

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

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

(X) "Pain management clinic" has the same meaning as in 526  
section 4731.054 of the Revised Code. 527

**Sec. 4729.071.** (A) As used in this section, "license" and 528  
"applicant for an initial license" have the same meanings as in 529  
section 4776.01 of the Revised Code, except that "license" as used 530  
in both of those terms refers to the types of authorizations 531  
otherwise issued or conferred under this chapter. 532

(B) In addition to any other eligibility requirement set 533  
forth in this chapter, each applicant for an initial license shall 534  
comply with sections 4776.01 to 4776.04 of the Revised Code. The 535  
state board of pharmacy shall not grant a license to an applicant 536  
for an initial license unless the applicant complies with sections 537  
4776.01 to 4776.04 of the Revised Code and the board, in its 538  
discretion, decides that the results of the criminal records check 539  
do not make the applicant ineligible for a license issued pursuant 540  
to section 4729.08, 4729.09, ~~or~~ 4729.11, or 4729.552 of the 541  
Revised Code. 542

**Sec. 4729.162.** (A) As used in this section, "drug database" 543  
means the database established and maintained by the state board 544  
of pharmacy pursuant to section 4729.75 of the Revised Code. 545

(B) The state board of pharmacy shall adopt rules in 546  
accordance with Chapter 119. of the Revised Code that establish 547  
standards and procedures to be followed by a pharmacist regarding 548  
the review of patient information available through the drug 549  
database. 550

(C) This section and the rules adopted under it do not apply 551  
if the board no longer maintains the drug database. 552

**Sec. 4729.29.** ~~(A)~~ Divisions (A) and (B) of section 4729.01 553  
and section 4729.28 of the Revised Code do not do ~~either~~ any of 554

the following: 555

~~(1)(A)~~ Apply to a licensed health professional authorized to 556  
prescribe drugs ~~or prevent~~ who is acting within the prescriber's 557  
scope of professional practice; 558

(B) Prevent a prescriber from personally furnishing the 559  
prescriber's patients with drugs, within the prescriber's scope of 560  
professional practice, that seem proper to the prescriber-, as 561  
long as the drugs are furnished in accordance with section 562  
4729.291 of the Revised Code; 563

~~(2)(C)~~ Apply to the sale of oxygen, peritoneal dialysis 564  
solutions, or the sale of drugs that are not dangerous drugs by a 565  
retail dealer, in original packages when labeled as required by 566  
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 567  
21 U.S.C.A. 301, as amended. 568

~~(B) When a prescriber personally furnishes drugs to a patient~~ 569  
~~pursuant to division (A)(1) of this section, the prescriber shall~~ 570  
~~ensure that the drugs are labeled and packaged in accordance with~~ 571  
~~state and federal drug laws and any rules and regulations adopted~~ 572  
~~pursuant to those laws. Records of purchase and disposition of all~~ 573  
~~drugs personally furnished to patients shall be maintained by the~~ 574  
~~prescriber in accordance with state and federal drug statutes and~~ 575  
~~any rules adopted pursuant to those statutes.~~ 576

~~When personally furnishing to a patient RU 486~~ 577  
~~(mifepristone), a prescriber is subject to section 2919.123 of the~~ 578  
~~Revised Code. A prescription for RU 486 (mifepristone) shall be in~~ 579  
~~writing and in accordance with section 2919.123 of the Revised~~ 580  
~~Code.~~ 581

Sec. 4729.291. (A) When a licensed health professional 582  
authorized to prescribe drugs personally furnishes drugs to a 583  
patient pursuant to division (B) of section 4729.29 of the Revised 584

Code, the prescriber shall ensure that the drugs are labeled and 585  
packaged in accordance with state and federal drug laws and any 586  
rules and regulations adopted pursuant to those laws. Records of 587  
purchase and disposition of all drugs personally furnished to 588  
patients shall be maintained by the prescriber in accordance with 589  
state and federal drug statutes and any rules adopted pursuant to 590  
those statutes. 591

(B) When personally furnishing to a patient RU-486 592  
(mifepristone), a prescriber is subject to section 2919.123 of the 593  
Revised Code. A prescription for RU-486 (mifepristone) shall be in 594  
writing and in accordance with section 2919.123 of the Revised 595  
Code. 596

(C)(1) Except as provided in division (C)(2) of this section, 597  
a prescriber may not do either of the following: 598

(a) In any thirty-day period, personally furnish to all 599  
patients, taken as a whole, controlled substances in an amount 600  
that exceeds a total of two thousand five hundred dosage units; 601

(b) In any seventy-two-hour period, personally furnish to or 602  
for a patient an amount of a controlled substance that exceeds the 603  
amount necessary for the patient's use in a seventy-two-hour 604  
period. 605

(2) Division (C)(1) of this section does not apply to either 606  
of the following: 607

(a) A veterinarian; 608

(b) The amount of any methadone personally furnished to a 609  
patient by a prescriber for the purpose of treating drug 610  
addiction. 611

(3) The state board of pharmacy may impose a fine of not more 612  
than five thousand dollars on a prescriber who fails to comply 613  
with the limits established under division (C)(1) of this section. 614

A separate fine may be imposed for each instance of failing to 615  
comply with the limits. In imposing the fine, the board's actions 616  
shall be taken in accordance with Chapter 119. of the Revised 617  
Code. 618

**Sec. 4729.51.** (A) No person other than a registered wholesale 619  
distributor of dangerous drugs shall possess for sale, sell, 620  
distribute, or deliver, at wholesale, dangerous drugs, except as 621  
follows: 622

(1) A pharmacist who is a licensed terminal distributor of 623  
dangerous drugs or who is employed by a licensed terminal 624  
distributor of dangerous drugs may make occasional sales of 625  
dangerous drugs at wholesale; 626

(2) A licensed terminal distributor of dangerous drugs having 627  
more than one establishment or place may transfer or deliver 628  
dangerous drugs from one establishment or place for which a 629  
license has been issued to the terminal distributor to another 630  
establishment or place for which a license has been issued to the 631  
terminal distributor if the license issued for each establishment 632  
or place is in effect at the time of the transfer or delivery. 633

(B)(1) No registered wholesale distributor of dangerous drugs 634  
shall possess for sale, or sell, at wholesale, dangerous drugs to 635  
any person other than the following: 636

(a) ~~A~~ Except as provided in division (B)(3) of this section, 637  
a licensed health professional authorized to prescribe drugs; 638

(b) An optometrist licensed under Chapter 4725. of the 639  
Revised Code who holds a topical ocular pharmaceutical agents 640  
certificate; 641

(c) A registered wholesale distributor of dangerous drugs; 642

(d) A manufacturer of dangerous drugs; 643

(e) ~~A~~ Subject to division (B)(3) of this section, a licensed 644

terminal distributor of dangerous drugs, ~~subject to division~~ 645  
~~(B)(2) of this section;~~ 646

(f) Carriers or warehousemen for the purpose of carriage or 647  
storage; 648

(g) Terminal or wholesale distributors of dangerous drugs who 649  
are not engaged in the sale of dangerous drugs within this state; 650

(h) An individual who holds a current license, certificate, 651  
or registration issued under Title 47 of the Revised Code and has 652  
been certified to conduct diabetes education by a national 653  
certifying body specified in rules adopted by the state board of 654  
pharmacy under section 4729.68 of the Revised Code, but only with 655  
respect to insulin that will be used for the purpose of diabetes 656  
education and only if diabetes education is within the 657  
individual's scope of practice under statutes and rules regulating 658  
the individual's profession; 659

(i) An individual who holds a valid certificate issued by a 660  
nationally recognized S.C.U.B.A. diving certifying organization 661  
approved by the state board of pharmacy ~~board~~ in rule, but only 662  
with respect to medical oxygen that will be used for the purpose 663  
of emergency care or treatment at the scene of a diving emergency; 664

(j) ~~A~~ Except as provided in division (B)(2) of this section, 665  
a business entity that is a corporation formed under division (B) 666  
of section 1701.03 of the Revised Code, a limited liability 667  
company formed under Chapter 1705. of the Revised Code, or a 668  
professional association formed under Chapter 1785. of the Revised 669  
Code if the entity has a sole shareholder who is a licensed health 670  
professional authorized to prescribe drugs and is authorized to 671  
provide the professional services being offered by the entity; 672

(k) ~~A~~ Except as provided in division (B)(2) of this section, 673  
a business entity that is a corporation formed under division (B) 674  
of section 1701.03 of the Revised Code, a limited liability 675

company formed under Chapter 1705. of the Revised Code, a 676  
partnership or a limited liability partnership formed under 677  
Chapter 1775. of the Revised Code, or a professional association 678  
formed under Chapter 1785. of the Revised Code, if, to be a 679  
shareholder, member, or partner, an individual is required to be 680  
licensed, certified, or otherwise legally authorized under Title 681  
XLVII of the Revised Code to perform the professional service 682  
provided by the entity and each such individual is a licensed 683  
health professional authorized to prescribe drugs. 684

(2) No registered wholesaler of dangerous drugs shall possess 685  
for sale, or sell, at wholesale, dangerous drugs to any of the 686  
following: 687

(a) A prescriber who is employed by a pain management clinic 688  
that is not licensed as a terminal distributor of dangerous drugs 689  
with a pain management clinic classification issued under section 690  
4729.552 of the Revised Code; 691

(b) A business entity described in division (B)(1)(j) of this 692  
section that is, or is operating, a pain management clinic without 693  
a license as a terminal distributor of dangerous drugs with a pain 694  
management clinic classification issued under section 4729.552 of 695  
the Revised Code; 696

(c) A business entity described in division (B)(1)(k) of this 697  
section that is, or is operating, a pain management clinic without 698  
a license as a terminal distributor of dangerous drugs with a pain 699  
management clinic classification issued under section 4729.552 of 700  
the Revised Code. 701

(3) No registered wholesale distributor of dangerous drugs 702  
shall possess dangerous drugs for sale at wholesale, or sell such 703  
drugs at wholesale, to a licensed terminal distributor of 704  
dangerous drugs, except ~~to~~ as follows: 705

(a) ~~A~~ In the case of a terminal distributor who has with a 706

category I license, only dangerous drugs described in category I, 707  
as defined in division (A)(1) of section 4729.54 of the Revised 708  
Code; 709

(b) ~~A~~ In the case of a terminal distributor ~~who has with~~ a 710  
category II license, only dangerous drugs described in category I 711  
and category II, as defined in divisions (A)(1) and (2) of section 712  
4729.54 of the Revised Code; 713

(c) ~~A~~ In the case of a terminal distributor ~~who has with~~ a 714  
category III license, dangerous drugs described in category I, 715  
category II, and category III, as defined in divisions (A)(1), 716  
(2), and (3) of section 4729.54 of the Revised Code; 717

(d) ~~A~~ In the case of a terminal distributor ~~who has with~~ a 718  
limited category I, II, or III license, only the dangerous drugs 719  
specified in the certificate furnished by the terminal distributor 720  
in accordance with section 4729.60 of the Revised Code. 721

(C)(1) Except as provided in division (C)(4) of this section, 722  
no person shall sell, at retail, dangerous drugs. 723

(2) Except as provided in division (C)(4) of this section, no 724  
person shall possess for sale, at retail, dangerous drugs. 725

(3) Except as provided in division (C)(4) of this section, no 726  
person shall possess dangerous drugs. 727

(4) Divisions (C)(1), (2), and (3) of this section do not 728  
apply to a registered wholesale distributor of dangerous drugs, a 729  
licensed terminal distributor of dangerous drugs, or a person who 730  
possesses, or possesses for sale or sells, at retail, a dangerous 731  
drug in accordance with Chapters 3719., 4715., 4723., 4725., 732  
4729., 4730., 4731., and 4741. of the Revised Code. 733

Divisions (C)(1), (2), and (3) of this section do not apply 734  
to an individual who holds a current license, certificate, or 735  
registration issued under Title XLVII of the Revised Code and has 736

been certified to conduct diabetes education by a national 737  
certifying body specified in rules adopted by the state board of 738  
pharmacy under section 4729.68 of the Revised Code, but only to 739  
the extent that the individual possesses insulin or personally 740  
supplies insulin solely for the purpose of diabetes education and 741  
only if diabetes education is within the individual's scope of 742  
practice under statutes and rules regulating the individual's 743  
profession. 744

Divisions (C)(1), (2), and (3) of this section do not apply 745  
to an individual who holds a valid certificate issued by a 746  
nationally recognized S.C.U.B.A. diving certifying organization 747  
approved by the state board of pharmacy ~~board~~ in rule, but only to 748  
the extent that the individual possesses medical oxygen or 749  
personally supplies medical oxygen for the purpose of emergency 750  
care or treatment at the scene of a diving emergency. 751

(D) No licensed terminal distributor of dangerous drugs shall 752  
purchase for the purpose of resale dangerous drugs from any person 753  
other than a registered wholesale distributor of dangerous drugs, 754  
except as follows: 755

(1) A licensed terminal distributor of dangerous drugs may 756  
make occasional purchases of dangerous drugs for resale from a 757  
pharmacist who is a licensed terminal distributor of dangerous 758  
drugs or who is employed by a licensed terminal distributor of 759  
dangerous drugs; 760

(2) A licensed terminal distributor of dangerous drugs having 761  
more than one establishment or place may transfer or receive 762  
dangerous drugs from one establishment or place for which a 763  
license has been issued to the terminal distributor to another 764  
establishment or place for which a license has been issued to the 765  
terminal distributor if the license issued for each establishment 766  
or place is in effect at the time of the transfer or receipt. 767

(E) No licensed terminal distributor of dangerous drugs shall 768  
engage in the sale or other distribution of dangerous drugs at 769  
retail or maintain possession, custody, or control of dangerous 770  
drugs for any purpose other than the distributor's personal use or 771  
consumption, at any establishment or place other than that or 772  
those described in the license issued by the state board of 773  
pharmacy to such terminal distributor. 774

(F) Nothing in this section shall be construed to interfere 775  
with the performance of official duties by any law enforcement 776  
official authorized by municipal, county, state, or federal law to 777  
collect samples of any drug, regardless of its nature or in whose 778  
possession it may be. 779

**Sec. 4729.54.** (A) As used in this section and section 780  
4729.541 of the Revised Code: 781

(1) "Category I" means single-dose injections of intravenous 782  
fluids, including saline, Ringer's lactate, five per cent dextrose 783  
and distilled water, and other intravenous fluids or parenteral 784  
solutions included in this category by rule of the state board of 785  
pharmacy, that have a volume of one hundred milliliters or more 786  
and that contain no added substances, or single-dose injections of 787  
epinephrine to be administered pursuant to sections 4765.38 and 788  
4765.39 of the Revised Code. 789

(2) "Category II" means any dangerous drug that is not 790  
included in category I or III. 791

(3) "Category III" means any controlled substance that is 792  
contained in schedule I, II, III, IV, or V. 793

(4) "Emergency medical service organization" has the same 794  
meaning as in section 4765.01 of the Revised Code. 795

(5) "Person" includes an emergency medical service 796  
organization. 797

(6) "Schedule I, schedule II, schedule III, schedule IV, and  
schedule V" mean controlled substance schedules I, II, III, IV,  
and V, respectively, as established pursuant to section 3719.41 of  
the Revised Code and as amended.

(B)(1) A person who desires to be licensed as a terminal  
distributor of dangerous drugs shall file with the executive  
director of the state board of pharmacy a verified application  
~~that contains.~~ After it is filed, the application may not be  
withdrawn without approval of the board.

(2) An application shall contain all the following that apply  
in the applicant's case:

~~(1)~~(a) Information that the board requires relative to the  
qualifications of a terminal distributor of dangerous drugs set  
forth in section 4729.55 of the Revised Code;

~~(2)~~(b) A statement that the person wishes to be licensed as a  
category I, category II, category III, limited category I, limited  
category II, or limited category III terminal distributor of  
dangerous drugs;

~~(3)~~(c) If the person wishes to be licensed as a limited  
category I, limited category II, or limited category III terminal  
distributor of dangerous drugs, a notarized list of the dangerous  
drugs that the person wishes to possess, have custody or control  
of, and distribute, which list shall also specify the purpose for  
which those drugs will be used and their source;

~~(4)~~(d) If the person is an emergency medical service  
organization, the information that is specified in division (C)(1)  
of this section;

~~(5)~~(e) Except for an emergency medical service organization,  
the identity of the one establishment or place at which the person  
intends to engage in the sale or other distribution of dangerous  
drugs at retail, and maintain possession, custody, or control of

dangerous drugs for purposes other than the person's own use or 829  
consumption; 830

(f) If the application pertains to a pain management clinic, 831  
information that demonstrates, to the satisfaction of the board, 832  
compliance with division (A) of section 4729.552 of the Revised 833  
Code. 834

(C)(1) An emergency medical service organization that wishes 835  
to be licensed as a terminal distributor of dangerous drugs shall 836  
list in its application for licensure the following additional 837  
information: 838

(a) The units under its control that the organization 839  
determines will possess dangerous drugs for the purpose of 840  
administering emergency medical services in accordance with 841  
Chapter 4765. of the Revised Code; 842

(b) With respect to each such unit, whether the dangerous 843  
drugs that the organization determines the unit will possess are 844  
in category I, II, or III. 845

(2) An emergency medical service organization that is 846  
licensed as a terminal distributor of dangerous drugs shall file a 847  
new application for such licensure if there is any change in the 848  
number, or location of, any of its units or any change in the 849  
category of the dangerous drugs that any unit will possess. 850

(3) A unit listed in an application for licensure pursuant to 851  
division (C)(1) of this section may obtain the dangerous drugs it 852  
is authorized to possess from its emergency medical service 853  
organization or, on a replacement basis, from a hospital pharmacy. 854  
If units will obtain dangerous drugs from a hospital pharmacy, the 855  
organization shall file, and maintain in current form, the 856  
following items with the pharmacist who is responsible for the 857  
hospital's terminal distributor of dangerous drugs license: 858

(a) A copy of its standing orders or protocol; 859

(b) A list of the personnel employed or used by the organization to provide emergency medical services in accordance with Chapter 4765. of the Revised Code, who are authorized to possess the drugs, which list also shall indicate the personnel who are authorized to administer the drugs.

(D) Each emergency medical service organization that applies for a terminal distributor of dangerous drugs license shall submit with its application the following:

(1) A notarized copy of its standing orders or protocol, which orders or protocol shall be signed by a physician and specify the dangerous drugs that its units may carry, expressed in standard dose units;

(2) A list of the personnel employed or used by the organization to provide emergency medical services in accordance with Chapter 4765. of the Revised Code.

An emergency medical service organization that is licensed as a terminal distributor shall notify the board immediately of any changes in its standing orders or protocol.

(E) There shall be six categories of terminal distributor of dangerous drugs licenses, which categories shall be as follows:

(1) Category I license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I.

(2) Limited category I license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I that were listed in the application for licensure.

(3) Category II license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I and category II.

(4) Limited category II license. A person who obtains this 890  
license may possess, have custody or control of, and distribute 891  
only the dangerous drugs described in category I or category II 892  
that were listed in the application for licensure. 893

(5) Category III license, which may include a pain management 894  
clinic classification issued under section 4729.552 of the Revised 895  
Code. A person who obtains this license may possess, have custody 896  
or control of, and distribute the dangerous drugs described in 897  
category I, category II, and category III. If the license includes 898  
a pain management clinic classification, the person may operate a 899  
pain management clinic. 900

(6) Limited category III license. A person who obtains this 901  
license may possess, have custody or control of, and distribute 902  
only the dangerous drugs described in category I, category II, or 903  
category III that were listed in the application for licensure. 904

(F) Except for an application made on behalf of an animal 905  
shelter, if an applicant for licensure as a limited category I, 906  
II, or III terminal distributor of dangerous drugs intends to 907  
administer dangerous drugs to a person or animal, the applicant 908  
shall submit, with the application, a notarized copy of its 909  
protocol or standing orders, which protocol or orders shall be 910  
signed by a licensed health professional authorized to prescribe 911  
drugs, specify the dangerous drugs to be administered, and list 912  
personnel who are authorized to administer the dangerous drugs in 913  
accordance with federal law or the law of this state. An 914  
application made on behalf of an animal shelter shall include a 915  
notarized list of the dangerous drugs to be administered to 916  
animals and the personnel who are authorized to administer the 917  
drugs to animals in accordance with section 4729.532 of the 918  
Revised Code. After obtaining a terminal distributor license, a 919  
licensee shall notify the board immediately of any changes in its 920  
protocol or standing orders, or in such personnel. 921

(G)(1) Except as provided in division (G)(2) of this section, 922  
each applicant for licensure as a terminal distributor of 923  
dangerous drugs shall submit, with the application, a license fee 924  
determined as follows: 925

(a) For a category I or limited category I license, 926  
forty-five dollars; 927

(b) For a category II or limited category II license, one 928  
hundred twelve dollars and fifty cents; 929

(c) For a category III license, including a license with a 930  
pain management clinic classification issued under section 931  
4729.552 of the Revised Code, or a limited category III license, 932  
one hundred fifty dollars. 933

(2) For a professional association, corporation, partnership, 934  
or limited liability company organized for the purpose of 935  
practicing veterinary medicine, the fee shall be forty dollars. 936

(3) Fees assessed under divisions (G)(1) and (2) of this 937  
section shall not be returned if the applicant fails to qualify 938  
for registration. 939

(H)(1) The board shall issue a terminal distributor of 940  
dangerous drugs license to each person who submits an application 941  
for such licensure in accordance with this section, pays the 942  
required license fee, is determined by the board to meet the 943  
requirements set forth in section 4729.55 of the Revised Code, and 944  
satisfies any other applicable requirements of this section. 945

(2) The license of a person other than an emergency medical 946  
service organization shall describe the one establishment or place 947  
at which the licensee may engage in the sale or other distribution 948  
of dangerous drugs at retail and maintain possession, custody, or 949  
control of dangerous drugs for purposes other than the licensee's 950  
own use or consumption. The one establishment or place shall be 951  
that which is described in the application for licensure. 952

No such license shall authorize or permit the terminal distributor of dangerous drugs named in it to engage in the sale or other distribution of dangerous drugs at retail or to maintain possession, custody, or control of dangerous drugs for any purpose other than the distributor's own use or consumption, at any establishment or place other than that described in the license, except that an agent or employee of an animal shelter may possess and use dangerous drugs in the course of business as provided in division (D) of section 4729.532 of the Revised Code.

(3) The license of an emergency medical service organization shall cover and describe all the units of the organization listed in its application for licensure.

(4) The license of every terminal distributor of dangerous drugs shall indicate, on its face, the category of licensure. If the license is a limited category I, II, or III license, it shall specify, and shall authorize the licensee to possess, have custody or control of, and distribute only, the dangerous drugs that were listed in the application for licensure.

(I) All licenses issued pursuant to this section shall be effective for a period of twelve months from the first day of January of each year. A license shall be renewed by the board for a like period, annually, according to the provisions of this section, and the standard renewal procedure of Chapter 4745. of the Revised Code. A person who desires to renew a license shall submit an application for renewal and pay the required fee on or before the thirty-first day of December each year. The fee required for the renewal of a license shall be the same as the fee paid for the license being renewed, and shall accompany the application for renewal.

A license that has not been renewed during December in any year and by the first day of February of the following year may be reinstated only upon payment of the required renewal fee and a

penalty fee of fifty-five dollars. 985

(J)(1) No emergency medical service organization that is 986  
licensed as a terminal distributor of dangerous drugs shall fail 987  
to comply with division (C)(2) or (3) of this section. 988

(2) No emergency medical service organization that is 989  
licensed as a terminal distributor of dangerous drugs shall fail 990  
to comply with division (D) of this section. 991

(3) No licensed terminal distributor of dangerous drugs shall 992  
possess, have custody or control of, or distribute dangerous drugs 993  
that the terminal distributor is not entitled to possess, have 994  
custody or control of, or distribute by virtue of its category of 995  
licensure. 996

(4) No licensee that is required by division (F) of this 997  
section to notify the board of changes in its protocol or standing 998  
orders, or in personnel, shall fail to comply with that division. 999

**Sec. 4729.541.** ~~A person~~ (A) Except as provided in division 1000  
(B) of this section, a business entity described in division 1001  
(B)(1)(j) or (k) of section 4729.51 of the Revised Code may 1002  
possess, have custody or control of, and distribute the dangerous 1003  
drugs in category I, category II, and category III of section 1004  
4729.54 of the Revised Code without holding a terminal distributor 1005  
of dangerous drugs license issued under that section. 1006

(B) If a business entity described in division (B)(1)(j) or 1007  
(k) of section 4729.51 of the Revised Code is a pain management 1008  
clinic or is operating a pain management clinic, the entity shall 1009  
hold a license as a terminal distributor of dangerous drugs with a 1010  
pain management clinic classification issued under section 1011  
4729.552 of the Revised Code. 1012

**Sec. 4729.55.** No license shall be issued to an applicant for 1013  
licensure as a terminal distributor of dangerous drugs unless the 1014

applicant has furnished satisfactory proof to the state board of 1015  
pharmacy that: 1016

(A) The applicant is equipped as to land, buildings, and 1017  
equipment to properly carry on the business of a terminal 1018  
distributor of dangerous drugs within the category of licensure 1019  
approved by the board. 1020

(B) A pharmacist, licensed health professional authorized to 1021  
prescribe drugs, animal shelter licensed with the state board of 1022  
pharmacy under section 4729.531 of the Revised Code, or a 1023  
laboratory as defined in section 3719.01 of the Revised Code will 1024  
maintain supervision and control over the possession and custody 1025  
of dangerous drugs that may be acquired by or on behalf of the 1026  
applicant. 1027

(C) Adequate safeguards are assured to prevent the sale or 1028  
other distribution of dangerous drugs by any person other than a 1029  
pharmacist or licensed health professional authorized to prescribe 1030  
drugs. 1031

(D) Adequate safeguards are assured that the applicant will 1032  
carry on the business of a terminal distributor of dangerous drugs 1033  
in a manner that allows pharmacists and pharmacy interns employed 1034  
by the terminal distributor to practice pharmacy in a safe and 1035  
effective manner. 1036

(E) If the applicant, or any agent or employee of the 1037  
applicant, has been found guilty of violating section 4729.51 of 1038  
the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 1039  
Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control 1040  
laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, 1041  
or any rule of the board, adequate safeguards are assured to 1042  
prevent the recurrence of the violation. 1043

(F) In the case of an applicant who is a food processor or 1044  
retail seller of food, the applicant will maintain supervision and 1045

control over the possession and custody of nitrous oxide. 1046

(G) In the case of an applicant who is a retail seller of 1047  
oxygen in original packages labeled as required by the "Federal 1048  
Food, Drug, and Cosmetic Act," the applicant will maintain 1049  
supervision and control over the possession, custody, and retail 1050  
sale of the oxygen. 1051

(H) If the application is made on behalf of an animal 1052  
shelter, at least one of the agents or employees of the animal 1053  
shelter is certified in compliance with section 4729.532 of the 1054  
Revised Code. 1055

(I) In the case of an applicant who is a retail seller of 1056  
peritoneal dialysis solutions in original packages labeled as 1057  
required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1058  
1040 (1938), 21 U.S.C.A. 301, the applicant will maintain 1059  
supervision and control over the possession, custody, and retail 1060  
sale of the peritoneal dialysis solutions. 1061

(J) In the case of an applicant who is a pain management 1062  
clinic, the applicant meets the requirements to receive a license 1063  
with a pain management clinic classification issued under section 1064  
4729.552 of the Revised Code. 1065

Sec. 4729.552. (A) To be eligible to receive a license as a 1066  
category III terminal distributor of dangerous drugs with a pain 1067  
management clinic classification, an applicant shall submit 1068  
evidence satisfactory to the board that the applicant's pain 1069  
management clinic will be operated in accordance with the 1070  
requirements specified in division (B) of this section and that 1071  
the applicant meets any other applicable requirements under this 1072  
chapter or Chapter 3719. of the Revised Code. 1073

If the board determines that an applicant meets all of the 1074  
requirements, the board shall issue to the applicant a license as 1075

a category III terminal distributor of dangerous drugs and specify 1076  
on the license that the terminal distributor is classified as a 1077  
pain management clinic. 1078

(B) The holder of a terminal distributor license with a pain 1079  
management clinic classification shall do all of the following: 1080

(1) Be in control of a facility that is owned and operated 1081  
solely by one or more physicians authorized under Chapter 4731. of 1082  
the Revised Code to practice medicine and surgery or osteopathic 1083  
medicine and surgery; 1084

(2) Ensure that any person employed by the facility complies 1085  
with the requirements for the operation of a pain management 1086  
clinic established by the state medical board in rules adopted 1087  
under section 4731.054 of the Revised Code; 1088

(3) Require any person with ownership of the facility to 1089  
submit to a criminal records check in accordance with section 1090  
4776.02 of the Revised Code and send the results of the criminal 1091  
records check directly to the state board of pharmacy for review 1092  
and decision under section 4729.071 of the Revised Code; 1093

(4) Require all employees of the facility to submit to a 1094  
criminal records check in accordance with section 4776.02 of the 1095  
Revised Code and ensure that no person is employed who has 1096  
previously been convicted of, or pleaded guilty to, any felony in 1097  
this state, another state, or the United States; 1098

(5) Maintain a list of each person with ownership of the 1099  
facility and notify the state board of pharmacy of any change to 1100  
that list. 1101

(C) No person shall operate a facility that under this 1102  
chapter is subject to licensure as a category III terminal 1103  
distributor of dangerous drugs with a pain management clinic 1104  
classification without obtaining and maintaining the license with 1105  
the classification. 1106

No person who holds a category III license with a pain management clinic classification shall fail to remain in compliance with the requirements of division (A) of this section and any other applicable requirements under this chapter or Chapter 3719. of the Revised Code. 1107  
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(D) The board may impose a fine of not more than five thousand dollars on a terminal distributor of dangerous drugs license holder who violates division (C) of this section. A separate fine may be imposed for each day the violation continues. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code. 1112  
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Sec. 4729.571. If the state board of pharmacy determines that there is clear and convincing evidence that the method used by a terminal distributor of dangerous drugs to distribute controlled substances presents a danger of immediate and serious harm to others, the board may suspend the terminal distributor's license without a hearing. The board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing, the suspension shall be void on the ninety-first day after the suspension. 1118  
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If the terminal distributor holds a license with a pain management clinic classification issued under section 4729.552 of the Revised Code and the person holding the license also holds a certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, prior to suspending the license without a hearing, the board shall consult with the secretary of the state medical board or, if the 1131  
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secretary is unavailable, another physician member of the board. 1138

Sec. 4729.69. (A) The state board of pharmacy, in 1139  
collaboration with the director of alcohol and drug addiction 1140  
services and attorney general, shall establish and administer a 1141  
drug take-back program under which drugs are collected from the 1142  
community for the purpose of destruction or disposal of the drugs. 1143

(B) The program shall be established and administered in such 1144  
a manner that it does both of the following: 1145

(1) Complies with any state or federal laws regarding the 1146  
collection, destruction, or disposal of drugs; 1147

(2) Maintains the confidentiality of individuals who submit 1148  
or otherwise provide drugs under the program. 1149

(C) In consultation with the director of alcohol and drug 1150  
addiction services and attorney general, the board shall adopt 1151  
rules governing the program. The rules shall be adopted in 1152  
accordance with Chapter 119. of the Revised Code. In adopting the 1153  
rules, the board shall specify all of the following: 1154

(1) The entities that may participate; 1155

(2) Guidelines and responsibilities for accepting drugs by 1156  
participating entities; 1157

(3) Drugs that may be collected; 1158

(4) Record-keeping requirements; 1159

(5) Proper methods to destroy unused drugs; 1160

(6) Privacy protocols and security standards; 1161

(7) Drug transportation procedures; 1162

(8) The schedule, duration, and frequency of the collections 1163  
of drugs, except that the first collection shall occur not later 1164  
than one year after the effective date of this section; 1165

(9) Any other standards and procedures the board considers necessary for purposes of governing the program. 1166  
1167

(D) In accordance with state and federal law, the board may adopt rules to allow an entity participating in the program to return any unused drugs to the pharmacy that originally dispensed the drug. The rules shall include procedures to be followed to maintain the confidentiality of the person for whom the drug was dispensed. 1168  
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(E) Rules adopted under this section may not do any of the following: 1174  
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(1) Require any entity to establish, fund, or operate a drug take-back program; 1176  
1177

(2) Establish any new licensing requirement or fee to participate in the program; 1178  
1179

(3) Require any entity to compile data on drugs collected. 1180

(F) The board may compile data on the amount and type of drugs collected under the program. For purposes of this division, the board may cooperate with a public or private entity in obtaining assistance in the compilation of data. An entity providing the assistance shall not be reimbursed under the program for any costs incurred in providing the assistance. 1181  
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(G) If the board compiles data under division (F) of this section, the board shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly. The report, to the extent possible, shall include the following information: 1187  
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1189  
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(1) Total weight of drugs collected, both with and without packaging; 1192  
1193

(2) The weight of controlled substances; 1194

(3) The amount of all of the following as a per cent of total 1195

<u>drugs collected:</u>	1196
<u>(a) Controlled substances;</u>	1197
<u>(b) Brand name drugs;</u>	1198
<u>(c) Generic drugs;</u>	1199
<u>(d) Prescription drugs;</u>	1200
<u>(e) Non-prescription drugs.</u>	1201
<u>(4) The amount of vitamins, herbal supplements, and personal care products collected;</u>	1202
<u>(5) If provided by the person who submitted or otherwise donated drugs to the program, the reasons why the drugs were returned or unused.</u>	1203
<u>(H) No entity is required to participate in a drug take-back program established under this section, and no entity shall be subject to civil liability or professional disciplinary action for declining to participate.</u>	1204
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1205
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1206
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<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1213
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1214
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1215
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1216
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1217
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1218
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1219
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1220
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1221
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1222
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1223
<u>(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.</u>	1224

and ~~4729.80~~ 4729.81 of the Revised Code. The board's collection 1225  
and dissemination of information shall be conducted in accordance 1226  
with rules adopted under section ~~4729.83~~ 4729.84 of the Revised 1227  
Code. 1228

**Sec. 4729.77.** (A) If the state board of pharmacy establishes 1229  
and maintains a drug database pursuant to section 4729.75 of the 1230  
Revised Code, each pharmacy licensed as a terminal distributor of 1231  
dangerous drugs that dispenses drugs to patients in this state and 1232  
is included in the types of pharmacies specified in rules adopted 1233  
under section ~~4729.83~~ 4729.84 of the Revised Code shall submit to 1234  
the board the following prescription information: 1235

(1) Terminal distributor identification; 1236

(2) Patient identification; 1237

(3) Prescriber identification; 1238

(4) Date prescription was issued by prescriber; 1239

(5) Date ~~prescription~~ drug was dispensed; 1240

(6) Indication of whether ~~prescription~~ the drug dispensed is 1241  
new or a refill; 1242

(7) Name, strength, and national drug code of the drug 1243  
dispensed; 1244

(8) Quantity of drug dispensed; 1245

(9) Number of days' supply of drug dispensed; 1246

(10) Serial or prescription number assigned by the terminal 1247  
distributor; 1248

(11) Source of payment for the ~~prescription~~ drug dispensed. 1249

(B)(1) The information shall be transmitted as specified by 1250  
the board in rules adopted under section ~~4729.83~~ 4729.84 of the 1251  
Revised Code. 1252

~~(1)~~(2) The information shall be submitted electronically in 1253  
the format specified by the board, except that the board may grant 1254  
a waiver allowing the distributor to submit the information in 1255  
another format. 1256

~~(2)~~(3) The information shall be submitted in accordance with 1257  
any time limits specified by the board, except that the board may 1258  
grant an extension if either of the following occurs: 1259

(a) The distributor suffers a mechanical or electronic 1260  
failure, or cannot meet the deadline for other reasons beyond the 1261  
distributor's control. 1262

(b) The board is unable to receive electronic submissions. 1263

(C) This section does not apply to a prescriber personally 1264  
furnishing or administering dangerous drugs to the prescriber's 1265  
patient. 1266

**Sec. 4729.78.** (A) If the state board of pharmacy establishes 1267  
and maintains a drug database pursuant to section 4729.75 of the 1268  
Revised Code, each wholesale distributor of dangerous drugs that 1269  
delivers drugs in this state to prescribers ~~in this state~~ or 1270  
terminal distributors of dangerous drugs shall submit to the board 1271  
the following purchase information: 1272

(1) Purchaser identification; 1273

(2) Identification of the drug sold; 1274

(3) Quantity of the drug sold; 1275

(4) Date of sale; 1276

(5) The wholesale distributor's license number issued by the 1277  
board. 1278

(B)(1) The information shall be transmitted as specified by 1279  
the board in rules adopted under section ~~4729.83~~ 4729.84 of the 1280  
Revised Code. 1281

~~(1)~~(2) The information shall be submitted electronically in 1282  
the format specified by the board, except that the board may grant 1283  
a waiver allowing the distributor to submit the information in 1284  
another format. 1285

~~(2)~~(3) The information shall be submitted in accordance with 1286  
any time limits specified by the board, except that the board may 1287  
grant an extension if either of the following occurs: 1288

(a) The distributor suffers a mechanical or electronic 1289  
failure, or cannot meet the deadline for other reasons beyond the 1290  
distributor's control. 1291

(b) The board is unable to receive electronic submissions. 1292

**Sec. 4729.79.** (A) If the state board of pharmacy establishes 1293  
and maintains a drug database pursuant to section 4729.75 of the 1294  
Revised Code, each licensed health professional authorized to 1295  
prescribe drugs, other than a veterinarian, who personally 1296  
furnishes a controlled substance or other dangerous drug the board 1297  
includes in the database pursuant to rules adopted under section 1298  
4729.84 of the Revised Code to a patient in this state shall 1299  
submit to the board the following information: 1300

(1) Prescriber identification; 1301

(2) Patient identification; 1302

(3) Date drug was furnished by the prescriber; 1303

(4) Indication of whether the drug furnished is new or a 1304  
refill; 1305

(5) Name, strength, and national drug code of drug furnished; 1306

(6) Quantity of drug furnished; 1307

(7) Number of days' supply of drug furnished; 1308

(8) Source of payment for the drug furnished. 1309

(B)(1) The information shall be transmitted as specified by the board in rules adopted under section 4729.84 of the Revised Code. 1310  
1311  
1312

(2) The information shall be submitted electronically in the format specified by the board, except that the board may grant a waiver allowing the prescriber to submit the information in another format. 1313  
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(3) The information shall be submitted in accordance with any time limits specified by the board, except that the board may grant an extension if either of the following occurs: 1317  
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(a) The prescriber's transmission system suffers a mechanical or electronic failure, or the prescriber cannot meet the deadline for other reasons beyond the prescriber's control. 1320  
1321  
1322

(b) The board is unable to receive electronic submissions. 1323

(C) If the board becomes aware of a prescriber's failure to comply with this section, the board shall notify the government entity responsible for licensing the prescriber. 1324  
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**Sec. ~~4729.79~~ 4729.80.** (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board ~~may~~ is authorized or required to provide information from the database in accordance with the following: 1327  
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(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of ~~licensed~~ health care professionals ~~authorized~~ with authority to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity. 1332  
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(2) On receipt of a request from a federal officer, or a 1339

state or local officer of this or any other state, whose duties 1340  
include enforcing laws relating to drugs, the board ~~may~~ shall 1341  
provide to the officer information from the database relating to 1342  
the person who is the subject of an active investigation of a drug 1343  
abuse offense, as defined in section 2925.01 of the Revised Code, 1344  
being conducted by the officer's employing government entity. 1345

(3) Pursuant to a subpoena issued by a grand jury, the board 1346  
~~may~~ shall provide to the grand jury information from the database 1347  
relating to the person who is the subject of an investigation 1348  
being conducted by the grand jury. 1349

(4) Pursuant to a subpoena, search warrant, or court order in 1350  
connection with the investigation or prosecution of a possible or 1351  
alleged criminal offense, the board shall provide information from 1352  
the database as necessary to comply with the subpoena, search 1353  
warrant, or court order. 1354

(5) On receipt of a request from a ~~pharmacist or~~ prescriber 1355  
or the prescriber's agent registered with the board, the board may 1356  
provide to the ~~requester~~ prescriber information from the database 1357  
relating to a current patient of the ~~requester~~ prescriber, if the 1358  
~~requester~~ prescriber certifies in a form specified by the board 1359  
that it is for the purpose of providing medical ~~or pharmaceutical~~ 1360  
treatment to the patient who is the subject of the request. 1361

~~(5)~~(6) On receipt of a request from a pharmacist, the board 1362  
may provide to the pharmacist information from the database 1363  
relating to a current patient of the pharmacist, if the pharmacist 1364  
certifies in a form specified by the board that it is for the 1365  
purpose of the pharmacist's practice of pharmacy involving the 1366  
patient who is the subject of the request. 1367

(7) On receipt of a request from an individual seeking the 1368  
individual's own database information in accordance with the 1369  
procedure established in rules adopted under section ~~4729.83~~ 1370

4729.84 of the Revised Code, the board may provide to the 1371  
individual the individual's own database information. 1372

(8) On receipt of a request from the medical director of a 1373  
managed care organization that has entered into a data security 1374  
agreement with the board required by section 5111.1710 of the 1375  
Revised Code, the board may provide to the medical director 1376  
information from the database relating to a medicaid recipient 1377  
enrolled in the managed care organization. 1378

(9) On receipt of a request from the director of job and 1379  
family services, the board may provide to the director information 1380  
from the database relating to a recipient of a program 1381  
administered by the department of job and family services. 1382

(10) On receipt of a request from a requestor described in 1383  
division (A)(1), (2), (5), or (6) of this section who is from or 1384  
participating with another state's prescription monitoring 1385  
program, the board may provide to the requestor information from 1386  
the database, but only if there is a written agreement under which 1387  
the information is to be used and disseminated according to the 1388  
laws of this state. 1389

(B) The state board of pharmacy shall maintain a record of 1390  
each individual or entity that requests information from the 1391  
database pursuant to this section. In accordance with rules 1392  
adopted under section ~~4729.83~~ 4729.84 of the Revised Code, the 1393  
board may use the records to document and report statistics and 1394  
law enforcement outcomes. 1395

The board may provide records of an individual's requests for 1396  
database information to the following: 1397

(1) A designated representative of a government entity that 1398  
is responsible for the licensure, regulation, or discipline of 1399  
~~licensed~~ health care professionals authorized with authority to 1400  
prescribe, administer, or dispense drugs who is involved in an 1401

active investigation being conducted by the government entity of 1402  
the individual who submitted the requests for database 1403  
information; 1404

(2) A federal officer, or a state or local officer of this or 1405  
any other state, whose duties include enforcing laws relating to 1406  
drugs and who is involved in an active investigation being 1407  
conducted by the officer's employing government entity of the 1408  
individual who submitted the requests for database information. 1409

(C) Information contained in the database and any information 1410  
obtained from it is not a public record. Information contained in 1411  
the records of requests for information from the database is not a 1412  
public record. Information that does not identify a person may be 1413  
released in summary, statistical, or aggregate form. 1414

(D) ~~Nothing in this section requires a pharmacist or~~ 1415  
~~prescriber to obtain information about a patient from the~~ 1416  
~~database.~~ A pharmacist or prescriber shall not be held liable in 1417  
damages to any person in any civil action for injury, death, or 1418  
loss to person or property on the basis that the pharmacist or 1419  
prescriber did or did not seek or obtain information from the 1420  
database. 1421

**Sec. ~~4729.80~~ 4729.81.** If the state board of pharmacy 1422  
establishes and maintains a drug database pursuant to section 1423  
4729.75 of the Revised Code, the board shall review the 1424  
information in the drug database. If the board determines from the 1425  
review that a violation of law may have occurred, it shall notify 1426  
the appropriate law enforcement agency or a government entity 1427  
responsible for the licensure, regulation, or discipline of 1428  
licensed health ~~care~~ professionals authorized to prescribe drugs 1429  
and supply information required by the agency or entity for an 1430  
investigation of the violation of law that may have occurred. 1431

**Sec. ~~4729.81~~ 4729.82.** If the state board of pharmacy 1432  
establishes a drug database pursuant to section 4729.75 of the 1433  
Revised Code, the information collected for the database shall be 1434  
retained in the database for at least two years. ~~The~~ Any 1435  
information that identifies a patient shall ~~then~~ be destroyed 1436  
after it has been retained for two years unless a law enforcement 1437  
agency or a government entity responsible for the licensure, 1438  
regulation, or discipline of licensed health ~~care~~ professionals 1439  
authorized to prescribe drugs has submitted a written request to 1440  
the board for retention of ~~specific~~ the information in accordance 1441  
with rules adopted by the board under section ~~4729.83~~ 4729.84 of 1442  
the Revised Code. 1443

**Sec. ~~4729.82~~ 4729.83. (A)** If the state board of pharmacy 1444  
establishes and maintains a drug database pursuant to section 1445  
4729.75 of the Revised Code, the board shall not impose any charge 1446  
on a terminal distributor of dangerous drugs, pharmacist, or 1447  
prescriber for the establishment or maintenance of the database. 1448  
The board shall not charge any fees for the transmission of data 1449  
to the database or for the receipt of information from the 1450  
database, except that the board may charge a fee in accordance 1451  
with rules adopted under section ~~4729.83~~ 4729.84 of the Revised 1452  
Code to an individual who requests the individual's own database 1453  
information under section ~~4729.79~~ 4729.80 of the Revised Code. 1454

(B) The board may accept grants, gifts, or donations for 1455  
purposes of the drug database. Any money received shall be 1456  
deposited into the state treasury to the credit of the drug 1457  
database fund, which is hereby created. Money in the fund shall be 1458  
used solely for purposes of the drug database. 1459

**Sec. ~~4729.83~~ 4729.84.** For purposes of establishing and 1460  
maintaining a drug database pursuant to section 4729.75 of the 1461

Revised Code, the state board of pharmacy shall adopt rules in 1462  
accordance with Chapter 119. of the Revised Code to carry out and 1463  
enforce sections 4729.75 to ~~4729.82~~ 4729.83 of the Revised Code. 1464  
The rules shall specify all of the following: 1465

(A) A means of identifying each patient, each terminal 1466  
distributor of dangerous drugs, and each purchase at wholesale of 1467  
dangerous drugs about which information is entered into the drug 1468  
database; 1469

(B) Requirements for the transmission of information from 1470  
terminal distributors ~~and of dangerous drugs,~~ wholesale 1471  
distributors of dangerous drugs ~~for purposes of the database, and~~ 1472  
prescribers; 1473

(C) An electronic format for the submission of information 1474  
from terminal distributors ~~and,~~ wholesale distributors ~~of~~ 1475  
dangerous drugs, and prescribers; 1476

(D) A procedure whereby a terminal distributor ~~or a,~~ 1477  
wholesale distributor ~~of dangerous drugs, or prescriber~~ unable to 1478  
submit information electronically may obtain a waiver to submit 1479  
information in another format; 1480

(E) A procedure whereby the board may grant a request from a 1481  
law enforcement agency or a government entity responsible for the 1482  
licensure, regulation, or discipline of licensed health ~~care~~ 1483  
professionals authorized to prescribe drugs that information that 1484  
has been stored for two years be retained when the information 1485  
pertains to an open investigation being conducted by the agency or 1486  
entity; 1487

(F) A procedure whereby a terminal ~~or distributor,~~ wholesale 1488  
distributor, or prescriber may apply for an extension to the time 1489  
by which information must be transmitted to the board; 1490

(G) A procedure whereby a person or government entity to 1491  
which the board is authorized to provide information may submit a 1492

request to the board for the information and the board may verify 1493  
the identity of the requestor; 1494

(H) A procedure whereby the board can use the database 1495  
request records required by division (B) of section ~~4729.79~~ 1496  
4729.80 of the Revised Code to document and report statistics and 1497  
law enforcement outcomes; 1498

(I) A procedure whereby an individual may request the 1499  
individual's own database information and the board may verify the 1500  
identity of the requestor; 1501

(J) A reasonable fee that the board may charge under section 1502  
~~4729.82~~ 4729.83 of the Revised Code for providing an individual 1503  
with the individual's own database information pursuant to section 1504  
~~4729.79~~ 4729.80 of the Revised Code; 1505

(K) The other specific dangerous drugs ~~other than that, in~~ 1506  
addition to controlled substances ~~that,~~ must be included in the 1507  
database; 1508

(L) The types of pharmacies licensed as terminal distributors 1509  
of dangerous drugs that are required to submit prescription 1510  
information to the board pursuant to section 4729.77 of the 1511  
Revised Code. 1512

**Sec. ~~4729.84~~ 4729.85.** (A) If the state board of pharmacy 1513  
establishes and maintains a drug database pursuant to section 1514  
4729.75 of the Revised Code, the board shall present a biennial 1515  
report to the standing committees of the house of representatives 1516  
and the senate that are primarily responsible for considering 1517  
health and human services issues. The initial report shall be 1518  
presented not later than two years after the database is 1519  
established. 1520

(B) Each report presented under this section shall include 1521  
all of the following: 1522

(1) The cost to the state of establishing and maintaining the database; 1523  
1524

(2) Information from terminal distributors of dangerous drugs, prescribers, and the board regarding the board's effectiveness in providing information from the database; 1525  
1526  
1527

(3) The board's timeliness in transmitting information from the database. 1528  
1529

Sec. 4729.86. If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, all of the following apply: 1530  
1531  
1532

(A)(1) No person identified in divisions (A)(1) to (9) or (B) of section 4729.80 of the Revised Code shall disseminate any written or electronic document the person receives from the drug database, except as necessary in the investigation or prosecution of a possible or alleged criminal offense. 1533  
1534  
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1537

(2) No person shall provide false information to the state board of pharmacy with the intent to obtain information contained in the drug database. 1538  
1539  
1540

(3) No person shall obtain drug database information by any means except as provided under section 4729.80 or 4729.81 of the Revised Code. 1541  
1542  
1543

(B) A person shall not use a document obtained pursuant to division (A) of section 4729.80 of the Revised Code as evidence in any civil or administrative proceeding. 1544  
1545  
1546

(C)(1) The board may restrict a person from obtaining further information from the drug database if any of the following is the case: 1547  
1548  
1549

(a) The person is convicted of or pleads guilty to a violation of division (A)(1), (2), or (3) of this section; 1550  
1551

(b) The person is a requestor identified in division (A)(10) of section 4729.80 of the Revised Code and the board determines that the person's actions in another state would have constituted a violation of division (A)(1), (2), or (3) of this section; 1552  
1553  
1554  
1555

(c) The person fails to comply with division (B) of this section, regardless of the jurisdiction in which the failure to comply occurred. 1556  
1557  
1558

(2) The board shall determine the extent to which the person is restricted from obtaining further information from the database. 1559  
1560  
1561

**Sec. 4729.99.** (A) Whoever violates section 4729.16, division (A) or (B) of section 4729.38, or section 4729.57 of the Revised Code is guilty of a minor misdemeanor. Each day's violation constitutes a separate offense. 1562  
1563  
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(B) Whoever violates section 4729.27, 4729.28, or 4729.36 of the Revised Code is guilty of a misdemeanor of the third degree. Each day's violation constitutes a separate offense. If the offender previously has been convicted of or pleaded guilty to a violation of this chapter, that person is guilty of a misdemeanor of the second degree. 1566  
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(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of the Revised Code is guilty of a misdemeanor. 1572  
1573

(D) Whoever violates division (A), (B), (D), or (E) of section 4729.51 of the Revised Code is guilty of a misdemeanor of the first degree. 1574  
1575  
1576

(E)(1) Whoever violates section 4729.37, division (C)(2) of section 4729.51, division (J) of section 4729.54, or section 4729.61 of the Revised Code is guilty of a felony of the fifth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this chapter or a violation of 1577  
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Chapter 2925. or 3719. of the Revised Code, that person is guilty 1582  
of a felony of the fourth degree. 1583

(2) If an offender is convicted of or pleads guilty to a 1584  
violation of section 4729.37, division (C) of section 4729.51, 1585  
division (J) of section 4729.54, or section 4729.61 of the Revised 1586  
Code, if the violation involves the sale, offer to sell, or 1587  
possession of a schedule I or II controlled substance, with the 1588  
exception of marihuana, and if the court imposing sentence upon 1589  
the offender finds that the offender as a result of the violation 1590  
is a major drug offender, as defined in section 2929.01 of the 1591  
Revised Code, and is guilty of a specification of the type 1592  
described in section 2941.1410 of the Revised Code, the court, in 1593  
lieu of the prison term authorized or required by division (E)(1) 1594  
of this section and sections 2929.13 and 2929.14 of the Revised 1595  
Code and in addition to any other sanction imposed for the offense 1596  
under sections 2929.11 to 2929.18 of the Revised Code, shall 1597  
impose upon the offender, in accordance with division (D)(3)(a) of 1598  
section 2929.14 of the Revised Code, the mandatory prison term 1599  
specified in that division and may impose an additional prison 1600  
term under division (D)(3)(b) of that section. 1601

(3) Notwithstanding any contrary provision of section 3719.21 1602  
of the Revised Code, the clerk of court shall pay any fine imposed 1603  
for a violation of section 4729.37, division (C) of section 1604  
4729.51, division (J) of section 4729.54, or section 4729.61 of 1605  
the Revised Code pursuant to division (A) of section 2929.18 of 1606  
the Revised Code in accordance with and subject to the 1607  
requirements of division (F) of section 2925.03 of the Revised 1608  
Code. The agency that receives the fine shall use the fine as 1609  
specified in division (F) of section 2925.03 of the Revised Code. 1610

(F) Whoever violates section 4729.531 of the Revised Code or 1611  
any rule adopted thereunder or section 4729.532 of the Revised 1612  
Code is guilty of a misdemeanor of the first degree. 1613

(G) Whoever violates division (C)(1) of section 4729.51 of the Revised Code is guilty of a felony of the fourth degree. If the offender has previously been convicted of or pleaded guilty to a violation of this chapter, or of a violation of Chapter 2925. or 3719. of the Revised Code, that person is guilty of a felony of the third degree.

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

(I)(1) Whoever violates division (B) of section 4729.42 of the Revised Code is guilty of unauthorized pharmacy-related drug conduct. Except as otherwise provided in this section, unauthorized pharmacy-related drug conduct is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (B), (C), (D), or (E) of that section, unauthorized pharmacy-related drug conduct is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense.

(2) Whoever violates division (C) or (D) of section 4729.42 of the Revised Code is guilty of permitting unauthorized pharmacy-related drug conduct. Except as otherwise provided in this section, permitting unauthorized pharmacy-related drug conduct is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (B), (C), (D), or (E) of that section, permitting unauthorized pharmacy-related drug conduct is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense.

(3) Whoever violates division (E) of section 4729.42 of the

Revised Code is guilty of the offense of falsification under 1646  
section 2921.13 of the Revised Code. In addition to any other 1647  
sanction imposed for the violation, the offender is forever 1648  
disqualified from engaging in any activity specified in division 1649  
(B)(1), (2), or (3) of section 4729.42 of the Revised Code and 1650  
from performing any function as a health care professional or 1651  
health care worker. As used in this division, "health care 1652  
professional" and "health care worker" have the same meanings as 1653  
in section 2305.234 of the Revised Code. 1654

(4) Notwithstanding any contrary provision of section 3719.21 1655  
of the Revised Code or any other provision of law that governs the 1656  
distribution of fines, the clerk of the court shall pay any fine 1657  
imposed pursuant to division (I)(1), (2), or (3) of this section 1658  
to the state board of pharmacy if the board has adopted a written 1659  
internal control policy under division (F)(2) of section 2925.03 1660  
of the Revised Code that addresses fine moneys that it receives 1661  
under Chapter 2925. of the Revised Code and if the policy also 1662  
addresses fine moneys paid under this division. The state board of 1663  
pharmacy shall use the fines so paid in accordance with the 1664  
written internal control policy to subsidize the board's law 1665  
enforcement efforts that pertain to drug offenses. 1666

(J)(1) Whoever violates division (A)(1) of section 4729.86 of 1667  
the Revised Code is guilty of a misdemeanor of the third degree. 1668  
If the offender has previously been convicted of or pleaded guilty 1669  
to a violation of division (A)(1), (2), or (3) of section 4729.86 1670  
of the Revised Code, that person is guilty of a misdemeanor of the 1671  
first degree. 1672

(2) Whoever violates division (A)(2) of section 4729.86 of 1673  
the Revised Code is guilty of a misdemeanor of the first degree. 1674  
If the offender has previously been convicted of or pleaded guilty 1675  
to a violation of division (A)(1), (2), or (3) of section 4729.86 1676  
of the Revised Code, that person is guilty of a felony of the 1677

fifth degree. 1678

(3) Whoever violates division (A)(3) of section 4729.86 of the Revised Code is guilty of a felony of the fifth degree. If the offender has previously been convicted of or pleaded guilty to a violation of division (A)(1), (2), or (3) of section 4729.86 of the Revised Code, that person is guilty of a felony of the fourth degree. 1679  
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(K) A person who violates division (C) of section 4729.552 of the Revised Code is guilty of a misdemeanor of the first degree. If the person previously has been convicted of or pleaded guilty to a violation of division (C) of section 4729.552 of the Revised Code, that person is guilty of a felony of the fifth degree. 1685  
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**Sec. 4730.53.** (A) As used in this section, "drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code. 1690  
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(B) The medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by a physician assistant who holds a certificate to prescribe issued under this chapter regarding the review of patient information available through the drug database. 1693  
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(C) This section and the rules adopted under it do not apply if the state board of pharmacy no longer maintains the drug database. 1698  
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**Sec. 4731.052.** (A) As used in this section: 1701

(1) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code. 1702  
1703

~~(2) "Intractable pain" means a state of pain that is determined, after reasonable medical efforts have been made to relieve the pain or cure its cause, to have a cause for which no~~ 1704  
1705  
1706

~~treatment or cure is possible or for which none has been found~~ 1707  
Chronic pain" means pain that has persisted after reasonable 1708  
medical efforts have been made to relieve the pain or cure its 1709  
cause and that has continued, either continuously or episodically, 1710  
for longer than three continuous months. "Chronic pain" does not 1711  
include pain associated with a terminal condition or with a 1712  
progressive disease that, in the normal course of progression, may 1713  
reasonably be expected to result in a terminal condition. 1714

(3) "Physician" means an individual authorized under this 1715  
chapter to practice medicine and surgery or osteopathic medicine 1716  
and surgery. 1717

(B) The state medical board shall adopt rules in accordance 1718  
with Chapter 119. of the Revised Code that establish standards and 1719  
procedures to be followed by physicians in the diagnosis and 1720  
treatment of ~~intractable~~ chronic pain, including standards for 1721  
managing ~~intractable~~ chronic pain by prescribing, personally 1722  
furnishing, or administering dangerous drugs in amounts or 1723  
combinations that may not be appropriate when treating other 1724  
medical conditions. In developing the rules, the board shall 1725  
consult with and permit review by physicians who are experienced 1726  
in the diagnosis and treatment of ~~intractable~~ chronic pain. 1727

(C) When a physician diagnoses an individual as having 1728  
~~intractable~~ chronic pain, the physician may treat the pain by 1729  
managing it with dangerous drugs in amounts or combinations that 1730  
may not be appropriate when treating other medical conditions. The 1731  
physician's diagnosis shall be made after having the individual 1732  
evaluated by one or more other physicians who specialize in the 1733  
treatment of the area, system, or organ of the body perceived as 1734  
the source of the pain. The physician's diagnosis and treatment 1735  
decisions shall be made according to accepted and prevailing 1736  
standards for medical care. The physician shall maintain a record 1737  
of all of the following: 1738

(1) Medical history and physical examination of the individual;	1739 1740
(2) The diagnosis of <del>intractable</del> <u>chronic</u> pain, including signs, symptoms, and causes;	1741 1742
(3) The plan of treatment proposed, the patient's response to treatment, and any modification to the plan of treatment;	1743 1744
(4) The dates on which dangerous drugs were prescribed, furnished, or administered, the name and address of the individual to or for whom the dangerous drugs were prescribed, dispensed, or administered, and the amounts and dosage forms for the dangerous drugs prescribed, furnished, or administered;	1745 1746 1747 1748 1749
(5) A copy of the report made by the physician or the physician to whom referral for evaluation was made under this division.	1750 1751 1752
(D) A physician who treats <del>intractable</del> <u>chronic</u> pain by managing it with dangerous drugs is not subject to disciplinary action by the board under section 4731.22 of the Revised Code solely because the physician treated the <del>intractable</del> <u>chronic</u> pain with dangerous drugs. The physician is subject to disciplinary action only if the dangerous drugs are not prescribed, furnished, or administered in accordance with this section and the rules adopted under it.	1753 1754 1755 1756 1757 1758 1759 1760
<b><u>Sec. 4731.054.</u></b> (A) As used in this section:	1761
<u>(1) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.</u>	1762 1763
<u>(2) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.</u>	1764 1765
<u>(3) "Owner" means each person included on the list maintained under division (B)(5) of section 4729.552 of the Revised Code.</u>	1766 1767

(4)(a) "Pain management clinic" means a facility to which all 1768  
of the following apply: 1769

(i) A primary component of practice is treatment of pain or 1770  
chronic pain; 1771

(ii) The majority of patients of the prescribers at the 1772  
facility are provided treatment for pain or chronic pain that 1773  
includes the use of controlled substances, tramadol, carisoprodol, 1774  
or other drugs specified in rules adopted under this section; 1775

(iii) The facility meets any other identifying criteria 1776  
established in rules adopted under this section. 1777

(b) "Pain management clinic" does not include any of the 1778  
following: 1779

(i) A hospital registered with the department of health under 1780  
section 3701.07 of the Revised Code or a facility owned by such a 1781  
hospital; 1782

(ii) A school, college, university, or other educational 1783  
institution or program to the extent that it provides instruction 1784  
to individuals preparing to practice as physicians, podiatrists, 1785  
dentists, nurses, physician assistants, optometrists, or 1786  
veterinarians or any affiliated facility to the extent that it 1787  
participates in the provision of that instruction; 1788

(iii) A hospice program licensed under Chapter 3712. of the 1789  
Revised Code; 1790

(iv) An ambulatory surgical facility licensed under section 1791  
3702.30 of the Revised Code. 1792

(5) "Physician" means an individual authorized under this 1793  
chapter to practice medicine and surgery or osteopathic medicine 1794  
and surgery. 1795

(6) "Prescriber" has the same meaning as in section 4729.01 1796  
of the Revised Code. 1797

(B) Each owner shall supervise, control, and direct the activities of each individual, including an employee, volunteer, or individual under contract, who provides treatment of pain or chronic pain at the clinic or is associated with the provision of that treatment. The supervision, control, and direction shall be provided in accordance with rules adopted under this section.

(C) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Standards and procedures for the operation of a pain management clinic;

(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic;

(3) For purposes of division (A)(4)(a)(ii) of this section, the other drugs used to treat pain or chronic pain that identify a facility as a pain management clinic;

(4) For purposes of division (A)(4)(a)(iii) of this section, the other criteria that identify a facility as a pain management clinic;

(5) For purposes of division (B) of this section, standards and procedures to be followed by an owner in providing supervision, direction, and control of individuals at a pain management clinic.

(D) The board may impose a fine of not more than twenty thousand dollars on a physician who fails to comply with rules adopted under this section. The fine may be in addition to or in lieu of any other action that may be taken under section 4731.22 of the Revised Code. The board shall deposit any amounts received under this division in accordance with section 4731.24 of the Revised Code.

Sec. 4731.055. (A) As used in this section: 1828

(1) "Drug database" means the database established and 1829  
maintained by the state board of pharmacy pursuant to section 1830  
4729.75 of the Revised Code. 1831

(2) "Physician" means an individual authorized under this 1832  
chapter to practice medicine and surgery, osteopathic medicine and 1833  
surgery, or podiatric medicine and surgery. 1834

(B) The state medical board shall adopt rules in accordance 1835  
with Chapter 119. of the Revised Code that establish standards and 1836  
procedures to be followed by a physician regarding the review of 1837  
patient information available through the drug database. 1838

(C) This section and the rules adopted under it do not apply 1839  
if the state board of pharmacy no longer maintains the drug 1840  
database. 1841

**Sec. 4731.22. (A)** The state medical board, by an affirmative 1842  
vote of not fewer than six of its members, may revoke or may 1843  
refuse to grant a certificate to a person found by the board to 1844  
have committed fraud during the administration of the examination 1845  
for a certificate to practice or to have committed fraud, 1846  
misrepresentation, or deception in applying for or securing any 1847  
certificate to practice or certificate of registration issued by 1848  
the board. 1849

(B) The board, by an affirmative vote of not fewer than six 1850  
members, shall, to the extent permitted by law, limit, revoke, or 1851  
suspend an individual's certificate to practice, refuse to 1852  
register an individual, refuse to reinstate a certificate, or 1853  
reprimand or place on probation the holder of a certificate for 1854  
one or more of the following reasons: 1855

(1) Permitting one's name or one's certificate to practice or 1856  
certificate of registration to be used by a person, group, or 1857

corporation when the individual concerned is not actually 1858  
directing the treatment given; 1859

(2) Failure to maintain minimal standards applicable to the 1860  
selection or administration of drugs, or failure to employ 1861  
acceptable scientific methods in the selection of drugs or other 1862  
modalities for treatment of disease; 1863

(3) Selling, giving away, personally furnishing, prescribing, 1864  
or administering drugs for other than legal and legitimate 1865  
therapeutic purposes or a plea of guilty to, a judicial finding of 1866  
guilt of, or a judicial finding of eligibility for intervention in 1867  
lieu of conviction of, a violation of any federal or state law 1868  
regulating the possession, distribution, or use of any drug; 1869

(4) Willfully betraying a professional confidence. 1870

For purposes of this division, "willfully betraying a 1871  
professional confidence" does not include providing any 1872  
information, documents, or reports to a child fatality review 1873  
board under sections 307.621 to 307.629 of the Revised Code and 1874  
does not include the making of a report of an employee's use of a 1875  
drug of abuse, or a report of a condition of an employee other 1876  
than one involving the use of a drug of abuse, to the employer of 1877  
the employee as described in division (B) of section 2305.33 of 1878  
the Revised Code. Nothing in this division affects the immunity 1879  
from civil liability conferred by that section upon a physician 1880  
who makes either type of report in accordance with division (B) of 1881  
that section. As used in this division, "employee," "employer," 1882  
and "physician" have the same meanings as in section 2305.33 of 1883  
the Revised Code. 1884

(5) Making a false, fraudulent, deceptive, or misleading 1885  
statement in the solicitation of or advertising for patients; in 1886  
relation to the practice of medicine and surgery, osteopathic 1887  
medicine and surgery, podiatric medicine and surgery, or a limited 1888

branch of medicine; or in securing or attempting to secure any 1889  
certificate to practice or certificate of registration issued by 1890  
the board. 1891

As used in this division, "false, fraudulent, deceptive, or 1892  
misleading statement" means a statement that includes a 1893  
misrepresentation of fact, is likely to mislead or deceive because 1894  
of a failure to disclose material facts, is intended or is likely 1895  
to create false or unjustified expectations of favorable results, 1896  
or includes representations or implications that in reasonable 1897  
probability will cause an ordinarily prudent person to 1898  
misunderstand or be deceived. 1899

(6) A departure from, or the failure to conform to, minimal 1900  
standards of care of similar practitioners under the same or 1901  
similar circumstances, whether or not actual injury to a patient 1902  
is established; 1903

(7) Representing, with the purpose of obtaining compensation 1904  
or other advantage as personal gain or for any other person, that 1905  
an incurable disease or injury, or other incurable condition, can 1906  
be permanently cured; 1907

(8) The obtaining of, or attempting to obtain, money or 1908  
anything of value by fraudulent misrepresentations in the course 1909  
of practice; 1910

(9) A plea of guilty to, a judicial finding of guilt of, or a 1911  
judicial finding of eligibility for intervention in lieu of 1912  
conviction for, a felony; 1913

(10) Commission of an act that constitutes a felony in this 1914  
state, regardless of the jurisdiction in which the act was 1915  
committed; 1916

(11) A plea of guilty to, a judicial finding of guilt of, or 1917  
a judicial finding of eligibility for intervention in lieu of 1918  
conviction for, a misdemeanor committed in the course of practice; 1919

(12) Commission of an act in the course of practice that 1920  
constitutes a misdemeanor in this state, regardless of the 1921  
jurisdiction in which the act was committed; 1922

(13) A plea of guilty to, a judicial finding of guilt of, or 1923  
a judicial finding of eligibility for intervention in lieu of 1924  
conviction for, a misdemeanor involving moral turpitude; 1925

(14) Commission of an act involving moral turpitude that 1926  
constitutes a misdemeanor in this state, regardless of the 1927  
jurisdiction in which the act was committed; 1928

(15) Violation of the conditions of limitation placed by the 1929  
board upon a certificate to practice; 1930

(16) Failure to pay license renewal fees specified in this 1931  
chapter; 1932

(17) Except as authorized in section 4731.31 of the Revised 1933  
Code, engaging in the division of fees for referral of patients, 1934  
or the receiving of a thing of value in return for a specific 1935  
referral of a patient to utilize a particular service or business; 1936

(18) Subject to section 4731.226 of the Revised Code, 1937  
violation of any provision of a code of ethics of the American 1938  
medical association, the American osteopathic association, the 1939  
American podiatric medical association, or any other national 1940  
professional organizations that the board specifies by rule. The 1941  
state medical board shall obtain and keep on file current copies 1942  
of the codes of ethics of the various national professional 1943  
organizations. The individual whose certificate is being suspended 1944  
or revoked shall not be found to have violated any provision of a 1945  
code of ethics of an organization not appropriate to the 1946  
individual's profession. 1947

For purposes of this division, a "provision of a code of 1948  
ethics of a national professional organization" does not include 1949  
any provision that would preclude the making of a report by a 1950

physician of an employee's use of a drug of abuse, or of a 1951  
condition of an employee other than one involving the use of a 1952  
drug of abuse, to the employer of the employee as described in 1953  
division (B) of section 2305.33 of the Revised Code. Nothing in 1954  
this division affects the immunity from civil liability conferred 1955  
by that section upon a physician who makes either type of report 1956  
in accordance with division (B) of that section. As used in this 1957  
division, "employee," "employer," and "physician" have the same 1958  
meanings as in section 2305.33 of the Revised Code. 1959

(19) Inability to practice according to acceptable and 1960  
prevailing standards of care by reason of mental illness or 1961  
physical illness, including, but not limited to, physical 1962  
deterioration that adversely affects cognitive, motor, or 1963  
perceptive skills. 1964

In enforcing this division, the board, upon a showing of a 1965  
possible violation, may compel any individual authorized to 1966  
practice by this chapter or who has submitted an application 1967  
pursuant to this chapter to submit to a mental examination, 1968  
physical examination, including an HIV test, or both a mental and 1969  
a physical examination. The expense of the examination is the 1970  
responsibility of the individual compelled to be examined. Failure 1971  
to submit to a mental or physical examination or consent to an HIV 1972  
test ordered by the board constitutes an admission of the 1973  
allegations against the individual unless the failure is due to 1974  
circumstances beyond the individual's control, and a default and 1975  
final order may be entered without the taking of testimony or 1976  
presentation of evidence. If the board finds an individual unable 1977  
to practice because of the reasons set forth in this division, the 1978  
board shall require the individual to submit to care, counseling, 1979  
or treatment by physicians approved or designated by the board, as 1980  
a condition for initial, continued, reinstated, or renewed 1981  
authority to practice. An individual affected under this division 1982

shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the public health council pursuant

to section 3701.341 of the Revised Code; 2015

(22) Any of the following actions taken by the agency 2016  
responsible for regulating the practice of medicine and surgery, 2017  
osteopathic medicine and surgery, podiatric medicine and surgery, 2018  
or the limited branches of medicine in another jurisdiction, for 2019  
any reason other than the nonpayment of fees: the limitation, 2020  
revocation, or suspension of an individual's license to practice; 2021  
acceptance of an individual's license surrender; denial of a 2022  
license; refusal to renew or reinstate a license; imposition of 2023  
probation; or issuance of an order of censure or other reprimand; 2024

(23) The violation of section 2919.12 of the Revised Code or 2025  
the performance or inducement of an abortion upon a pregnant woman 2026  
with actual knowledge that the conditions specified in division 2027  
(B) of section 2317.56 of the Revised Code have not been satisfied 2028  
or with a heedless indifference as to whether those conditions 2029  
have been satisfied, unless an affirmative defense as specified in 2030  
division (H)(2) of that section would apply in a civil action 2031  
authorized by division (H)(1) of that section; 2032

(24) The revocation, suspension, restriction, reduction, or 2033  
termination of clinical privileges by the United States department 2034  
of defense or department of veterans affairs or the termination or 2035  
suspension of a certificate of registration to prescribe drugs by 2036  
the drug enforcement administration of the United States 2037  
department of justice; 2038

(25) Termination or suspension from participation in the 2039  
medicare or medicaid programs by the department of health and 2040  
human services or other responsible agency for any act or acts 2041  
that also would constitute a violation of division (B)(2), (3), 2042  
(6), (8), or (19) of this section; 2043

(26) Impairment of ability to practice according to 2044  
acceptable and prevailing standards of care because of habitual or 2045

excessive use or abuse of drugs, alcohol, or other substances that 2046  
impair ability to practice. 2047

For the purposes of this division, any individual authorized 2048  
to practice by this chapter accepts the privilege of practicing in 2049  
this state subject to supervision by the board. By filing an 2050  
application for or holding a certificate to practice under this 2051  
chapter, an individual shall be deemed to have given consent to 2052  
submit to a mental or physical examination when ordered to do so 2053  
by the board in writing, and to have waived all objections to the 2054  
admissibility of testimony or examination reports that constitute 2055  
privileged communications. 2056

If it has reason to believe that any individual authorized to 2057  
practice by this chapter or any applicant for certification to 2058  
practice suffers such impairment, the board may compel the 2059  
individual to submit to a mental or physical examination, or both. 2060  
The expense of the examination is the responsibility of the 2061  
individual compelled to be examined. Any mental or physical 2062  
examination required under this division shall be undertaken by a 2063  
treatment provider or physician who is qualified to conduct the 2064  
examination and who is chosen by the board. 2065

Failure to submit to a mental or physical examination ordered 2066  
by the board constitutes an admission of the allegations against 2067  
the individual unless the failure is due to circumstances beyond 2068  
the individual's control, and a default and final order may be 2069  
entered without the taking of testimony or presentation of 2070  
evidence. If the board determines that the individual's ability to 2071  
practice is impaired, the board shall suspend the individual's 2072  
certificate or deny the individual's application and shall require 2073  
the individual, as a condition for initial, continued, reinstated, 2074  
or renewed certification to practice, to submit to treatment. 2075

Before being eligible to apply for reinstatement of a 2076  
certificate suspended under this division, the impaired 2077

practitioner shall demonstrate to the board the ability to resume 2078  
practice in compliance with acceptable and prevailing standards of 2079  
care under the provisions of the practitioner's certificate. The 2080  
demonstration shall include, but shall not be limited to, the 2081  
following: 2082

(a) Certification from a treatment provider approved under 2083  
section 4731.25 of the Revised Code that the individual has 2084  
successfully completed any required inpatient treatment; 2085

(b) Evidence of continuing full compliance with an aftercare 2086  
contract or consent agreement; 2087

(c) Two written reports indicating that the individual's 2088  
ability to practice has been assessed and that the individual has 2089  
been found capable of practicing according to acceptable and 2090  
prevailing standards of care. The reports shall be made by 2091  
individuals or providers approved by the board for making the 2092  
assessments and shall describe the basis for their determination. 2093

The board may reinstate a certificate suspended under this 2094  
division after that demonstration and after the individual has 2095  
entered into a written consent agreement. 2096

When the impaired practitioner resumes practice, the board 2097  
shall require continued monitoring of the individual. The 2098  
monitoring shall include, but not be limited to, compliance with 2099  
the written consent agreement entered into before reinstatement or 2100  
with conditions imposed by board order after a hearing, and, upon 2101  
termination of the consent agreement, submission to the board for 2102  
at least two years of annual written progress reports made under 2103  
penalty of perjury stating whether the individual has maintained 2104  
sobriety. 2105

(27) A second or subsequent violation of section 4731.66 or 2106  
4731.69 of the Revised Code; 2107

(28) Except as provided in division (N) of this section: 2108

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

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

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement

entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;	2140 2141
(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	2142 2143 2144 2145 2146 2147 2148 2149 2150
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	2151 2152 2153
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	2154 2155 2156
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	2157 2158
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	2159 2160
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	2161 2162 2163
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	2164 2165 2166
<u>(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management</u>	2167 2168 2169

<u>clinic;</u>	2170
<u>(42) Failure to comply with the standards and procedures</u>	2171
<u>established in rules under section 4731.054 of the Revised Code</u>	2172
<u>for providing supervision, direction, and control of individuals</u>	2173
<u>at a pain management clinic;</u>	2174
<u>(43) Failure to comply with the requirements of section</u>	2175
<u>4729.79 of the Revised Code, unless the state board of pharmacy no</u>	2176
<u>longer maintains a drug database pursuant to section 4729.75 of</u>	2177
<u>the Revised Code.</u>	2178
(C) Disciplinary actions taken by the board under divisions	2179
(A) and (B) of this section shall be taken pursuant to an	2180
adjudication under Chapter 119. of the Revised Code, except that	2181
in lieu of an adjudication, the board may enter into a consent	2182
agreement with an individual to resolve an allegation of a	2183
violation of this chapter or any rule adopted under it. A consent	2184
agreement, when ratified by an affirmative vote of not fewer than	2185
six members of the board, shall constitute the findings and order	2186
of the board with respect to the matter addressed in the	2187
agreement. If the board refuses to ratify a consent agreement, the	2188
admissions and findings contained in the consent agreement shall	2189
be of no force or effect.	2190
If the board takes disciplinary action against an individual	2191
under division (B) of this section for a second or subsequent plea	2192
of guilty to, or judicial finding of guilt of, a violation of	2193
section 2919.123 of the Revised Code, the disciplinary action	2194
shall consist of a suspension of the individual's certificate to	2195
practice for a period of at least one year or, if determined	2196
appropriate by the board, a more serious sanction involving the	2197
individual's certificate to practice. Any consent agreement	2198
entered into under this division with an individual that pertains	2199
to a second or subsequent plea of guilty to, or judicial finding	2200
of guilt of, a violation of that section shall provide for a	2201

suspension of the individual's certificate to practice for a 2202  
period of at least one year or, if determined appropriate by the 2203  
board, a more serious sanction involving the individual's 2204  
certificate to practice. 2205

(D) For purposes of divisions (B)(10), (12), and (14) of this 2206  
section, the commission of the act may be established by a finding 2207  
by the board, pursuant to an adjudication under Chapter 119. of 2208  
the Revised Code, that the individual committed the act. The board 2209  
does not have jurisdiction under those divisions if the trial 2210  
court renders a final judgment in the individual's favor and that 2211  
judgment is based upon an adjudication on the merits. The board 2212  
has jurisdiction under those divisions if the trial court issues 2213  
an order of dismissal upon technical or procedural grounds. 2214

(E) The sealing of conviction records by any court shall have 2215  
no effect upon a prior board order entered under this section or 2216  
upon the board's jurisdiction to take action under this section 2217  
if, based upon a plea of guilty, a judicial finding of guilt, or a 2218  
judicial finding of eligibility for intervention in lieu of 2219  
conviction, the board issued a notice of opportunity for a hearing 2220  
prior to the court's order to seal the records. The board shall 2221  
not be required to seal, destroy, redact, or otherwise modify its 2222  
records to reflect the court's sealing of conviction records. 2223

(F)(1) The board shall investigate evidence that appears to 2224  
show that a person has violated any provision of this chapter or 2225  
any rule adopted under it. Any person may report to the board in a 2226  
signed writing any information that the person may have that 2227  
appears to show a violation of any provision of this chapter or 2228  
any rule adopted under it. In the absence of bad faith, any person 2229  
who reports information of that nature or who testifies before the 2230  
board in any adjudication conducted under Chapter 119. of the 2231  
Revised Code shall not be liable in damages in a civil action as a 2232  
result of the report or testimony. Each complaint or allegation of 2233

a violation received by the board shall be assigned a case number 2234  
and shall be recorded by the board. 2235

(2) Investigations of alleged violations of this chapter or 2236  
any rule adopted under it shall be supervised by the supervising 2237  
member elected by the board in accordance with section 4731.02 of 2238  
the Revised Code and by the secretary as provided in section 2239  
4731.39 of the Revised Code. The president may designate another 2240  
member of the board to supervise the investigation in place of the 2241  
supervising member. No member of the board who supervises the 2242  
investigation of a case shall participate in further adjudication 2243  
of the case. 2244

(3) In investigating a possible violation of this chapter or 2245  
any rule adopted under this chapter, the board may administer 2246  
oaths, order the taking of depositions, issue subpoenas, and 2247  
compel the attendance of witnesses and production of books, 2248  
accounts, papers, records, documents, and testimony, except that a 2249  
subpoena for patient record information shall not be issued 2250  
without consultation with the attorney general's office and 2251  
approval of the secretary and supervising member of the board. 2252  
Before issuance of a subpoena for patient record information, the 2253  
secretary and supervising member shall determine whether there is 2254  
probable cause to believe that the complaint filed alleges a 2255  
violation of this chapter or any rule adopted under it and that 2256  
the records sought are relevant to the alleged violation and 2257  
material to the investigation. The subpoena may apply only to 2258  
records that cover a reasonable period of time surrounding the 2259  
alleged violation. 2260

On failure to comply with any subpoena issued by the board 2261  
and after reasonable notice to the person being subpoenaed, the 2262  
board may move for an order compelling the production of persons 2263  
or records pursuant to the Rules of Civil Procedure. 2264

A subpoena issued by the board may be served by a sheriff, 2265

the sheriff's deputy, or a board employee designated by the board. 2266  
Service of a subpoena issued by the board may be made by 2267  
delivering a copy of the subpoena to the person named therein, 2268  
reading it to the person, or leaving it at the person's usual 2269  
place of residence. When the person being served is a person whose 2270  
practice is authorized by this chapter, service of the subpoena 2271  
may be made by certified mail, restricted delivery, return receipt 2272  
requested, and the subpoena shall be deemed served on the date 2273  
delivery is made or the date the person refuses to accept 2274  
delivery. 2275

A sheriff's deputy who serves a subpoena shall receive the 2276  
same fees as a sheriff. Each witness who appears before the board 2277  
in obedience to a subpoena shall receive the fees and mileage 2278  
provided for under section 119.094 of the Revised Code. 2279

(4) All hearings and investigations of the board shall be 2280  
considered civil actions for the purposes of section 2305.252 of 2281  
the Revised Code. 2282

(5) Information received by the board pursuant to an 2283  
investigation is confidential and not subject to discovery in any 2284  
civil action. 2285

The board shall conduct all investigations and proceedings in 2286  
a manner that protects the confidentiality of patients and persons 2287  
who file complaints with the board. The board shall not make 2288  
public the names or any other identifying information about 2289  
patients or complainants unless proper consent is given or, in the 2290  
case of a patient, a waiver of the patient privilege exists under 2291  
division (B) of section 2317.02 of the Revised Code, except that 2292  
consent or a waiver of that nature is not required if the board 2293  
possesses reliable and substantial evidence that no bona fide 2294  
physician-patient relationship exists. 2295

The board may share any information it receives pursuant to 2296

an investigation, including patient records and patient record 2297  
information, with law enforcement agencies, other licensing 2298  
boards, and other governmental agencies that are prosecuting, 2299  
adjudicating, or investigating alleged violations of statutes or 2300  
administrative rules. An agency or board that receives the 2301  
information shall comply with the same requirements regarding 2302  
confidentiality as those with which the state medical board must 2303  
comply, notwithstanding any conflicting provision of the Revised 2304  
Code or procedure of the agency or board that applies when it is 2305  
dealing with other information in its possession. In a judicial 2306  
proceeding, the information may be admitted into evidence only in 2307  
accordance with the Rules of Evidence, but the court shall require 2308  
that appropriate measures are taken to ensure that confidentiality 2309  
is maintained with respect to any part of the information that 2310  
contains names or other identifying information about patients or 2311  
complainants whose confidentiality was protected by the state 2312  
medical board when the information was in the board's possession. 2313  
Measures to ensure confidentiality that may be taken by the court 2314  
include sealing its records or deleting specific information from 2315  
its records. 2316

(6) On a quarterly basis, the board shall prepare a report 2317  
that documents the disposition of all cases during the preceding 2318  
three months. The report shall contain the following information 2319  
for each case with which the board has completed its activities: 2320

(a) The case number assigned to the complaint or alleged 2321  
violation; 2322

(b) The type of certificate to practice, if any, held by the 2323  
individual against whom the complaint is directed; 2324

(c) A description of the allegations contained in the 2325  
complaint; 2326

(d) The disposition of the case. 2327

The report shall state how many cases are still pending and 2328  
shall be prepared in a manner that protects the identity of each 2329  
person involved in each case. The report shall be a public record 2330  
under section 149.43 of the Revised Code. 2331

(G) ~~If~~ The state medical board may suspend without prior 2332  
hearing a certificate to practice issued under this chapter if the 2333  
secretary and supervising member determine ~~that there~~ both of the 2334  
following: 2335

(1) That there is clear and convincing evidence that an 2336  
individual has violated division (B) of this section ~~and that;~~ 2337

(2) That the individual's continued practice presents a 2338  
danger of immediate and serious harm to the public, ~~they may~~ 2339  
~~recommend that the board suspend the individual's certificate to~~ 2340  
~~practice without a prior hearing. Written allegations shall be~~ 2341  
~~prepared for consideration by the board.~~ 2342

The secretary and supervising member shall provide written 2343  
allegations to the board. The board, upon review of those 2344  
allegations and by an affirmative vote of not fewer than six of 2345  
its members, excluding the secretary and supervising member, may 2346  
suspend a certificate without a prior hearing. A telephone 2347  
conference call may be utilized for reviewing the allegations and 2348  
taking the vote on the summary suspension. 2349

The board shall issue a written order of suspension by 2350  
certified mail or in person in accordance with section 119.07 of 2351  
the Revised Code. The order shall not be subject to suspension by 2352  
the court during pendency of any appeal filed under section 119.12 2353  
of the Revised Code. If the individual subject to the summary 2354  
suspension requests an adjudicatory hearing by the board, the date 2355  
set for the hearing shall be within fifteen days, but not earlier 2356  
than seven days, after the individual requests the hearing, unless 2357  
otherwise agreed to by both the board and the individual. 2358

Any summary suspension imposed under this division shall 2359  
remain in effect, unless reversed on appeal, until a final 2360  
adjudicative order issued by the board pursuant to this section 2361  
and Chapter 119. of the Revised Code becomes effective. The board 2362  
shall issue its final adjudicative order within seventy-five days 2363  
after completion of its hearing. A failure to issue the order 2364  
within seventy-five days shall result in dissolution of the 2365  
summary suspension order but shall not invalidate any subsequent, 2366  
final adjudicative order. 2367

(H) If the board takes action under division (B)(9), (11), or 2368  
(13) of this section and the judicial finding of guilt, guilty 2369  
plea, or judicial finding of eligibility for intervention in lieu 2370  
of conviction is overturned on appeal, upon exhaustion of the 2371  
criminal appeal, a petition for reconsideration of the order may 2372  
be filed with the board along with appropriate court documents. 2373  
Upon receipt of a petition of that nature and supporting court 2374  
documents, the board shall reinstate the individual's certificate 2375  
to practice. The board may then hold an adjudication under Chapter 2376  
119. of the Revised Code to determine whether the individual 2377  
committed the act in question. Notice of an opportunity for a 2378  
hearing shall be given in accordance with Chapter 119. of the 2379  
Revised Code. If the board finds, pursuant to an adjudication held 2380  
under this division, that the individual committed the act or if 2381  
no hearing is requested, the board may order any of the sanctions 2382  
identified under division (B) of this section. 2383

(I) The certificate to practice issued to an individual under 2384  
this chapter and the individual's practice in this state are 2385  
automatically suspended as of the date of the individual's second 2386  
or subsequent plea of guilty to, or judicial finding of guilt of, 2387  
a violation of section 2919.123 of the Revised Code, or the date 2388  
the individual pleads guilty to, is found by a judge or jury to be 2389  
guilty of, or is subject to a judicial finding of eligibility for 2390

intervention in lieu of conviction in this state or treatment or 2391  
intervention in lieu of conviction in another jurisdiction for any 2392  
of the following criminal offenses in this state or a 2393  
substantially equivalent criminal offense in another jurisdiction: 2394  
aggravated murder, murder, voluntary manslaughter, felonious 2395  
assault, kidnapping, rape, sexual battery, gross sexual 2396  
imposition, aggravated arson, aggravated robbery, or aggravated 2397  
burglary. Continued practice after suspension shall be considered 2398  
practicing without a certificate. 2399

The board shall notify the individual subject to the 2400  
suspension by certified mail or in person in accordance with 2401  
section 119.07 of the Revised Code. If an individual whose 2402  
certificate is automatically suspended under this division fails 2403  
to make a timely request for an adjudication under Chapter 119. of 2404  
the Revised Code, the board shall do whichever of the following is 2405  
applicable: 2406

(1) If the automatic suspension under this division is for a 2407  
second or subsequent plea of guilty to, or judicial finding of 2408  
guilt of, a violation of section 2919.123 of the Revised Code, the 2409  
board shall enter an order suspending the individual's certificate 2410  
to practice for a period of at least one year or, if determined 2411  
appropriate by the board, imposing a more serious sanction 2412  
involving the individual's certificate to practice. 2413

(2) In all circumstances in which division (I)(1) of this 2414  
section does not apply, enter a final order permanently revoking 2415  
the individual's certificate to practice. 2416

(J) If the board is required by Chapter 119. of the Revised 2417  
Code to give notice of an opportunity for a hearing and if the 2418  
individual subject to the notice does not timely request a hearing 2419  
in accordance with section 119.07 of the Revised Code, the board 2420  
is not required to hold a hearing, but may adopt, by an 2421  
affirmative vote of not fewer than six of its members, a final 2422

order that contains the board's findings. In that final order, the 2423  
board may order any of the sanctions identified under division (A) 2424  
or (B) of this section. 2425

(K) Any action taken by the board under division (B) of this 2426  
section resulting in a suspension from practice shall be 2427  
accompanied by a written statement of the conditions under which 2428  
the individual's certificate to practice may be reinstated. The 2429  
board shall adopt rules governing conditions to be imposed for 2430  
reinstatement. Reinstatement of a certificate suspended pursuant 2431  
to division (B) of this section requires an affirmative vote of 2432  
not fewer than six members of the board. 2433

(L) When the board refuses to grant a certificate to an 2434  
applicant, revokes an individual's certificate to practice, 2435  
refuses to register an applicant, or refuses to reinstate an 2436  
individual's certificate to practice, the board may specify that 2437  
its action is permanent. An individual subject to a permanent 2438  
action taken by the board is forever thereafter ineligible to hold 2439  
a certificate to practice and the board shall not accept an 2440  
application for reinstatement of the certificate or for issuance 2441  
of a new certificate. 2442

(M) Notwithstanding any other provision of the Revised Code, 2443  
all of the following apply: 2444

(1) The surrender of a certificate issued under this chapter 2445  
shall not be effective unless or until accepted by the board. 2446  
Reinstatement of a certificate surrendered to the board requires 2447  
an affirmative vote of not fewer than six members of the board. 2448

(2) An application for a certificate made under the 2449  
provisions of this chapter may not be withdrawn without approval 2450  
of the board. 2451

(3) Failure by an individual to renew a certificate of 2452  
registration in accordance with this chapter shall not remove or 2453

limit the board's jurisdiction to take any disciplinary action 2454  
under this section against the individual. 2455

(N) Sanctions shall not be imposed under division (B)(28) of 2456  
this section against any person who waives deductibles and 2457  
copayments as follows: 2458

(1) In compliance with the health benefit plan that expressly 2459  
allows such a practice. Waiver of the deductibles or copayments 2460  
shall be made only with the full knowledge and consent of the plan 2461  
purchaser, payer, and third-party administrator. Documentation of 2462  
the consent shall be made available to the board upon request. 2463

(2) For professional services rendered to any other person 2464  
authorized to practice pursuant to this chapter, to the extent 2465  
allowed by this chapter and rules adopted by the board. 2466

(O) Under the board's investigative duties described in this 2467  
section and subject to division (F) of this section, the board 2468  
shall develop and implement a quality intervention program 2469  
designed to improve through remedial education the clinical and 2470  
communication skills of individuals authorized under this chapter 2471  
to practice medicine and surgery, osteopathic medicine and 2472  
surgery, and podiatric medicine and surgery. In developing and 2473  
implementing the quality intervention program, the board may do 2474  
all of the following: 2475

(1) Offer in appropriate cases as determined by the board an 2476  
educational and assessment program pursuant to an investigation 2477  
the board conducts under this section; 2478

(2) Select providers of educational and assessment services, 2479  
including a quality intervention program panel of case reviewers; 2480

(3) Make referrals to educational and assessment service 2481  
providers and approve individual educational programs recommended 2482  
by those providers. The board shall monitor the progress of each 2483  
individual undertaking a recommended individual educational 2484

program. 2485

(4) Determine what constitutes successful completion of an 2486  
individual educational program and require further monitoring of 2487  
the individual who completed the program or other action that the 2488  
board determines to be appropriate; 2489

(5) Adopt rules in accordance with Chapter 119. of the 2490  
Revised Code to further implement the quality intervention 2491  
program. 2492

An individual who participates in an individual educational 2493  
program pursuant to this division shall pay the financial 2494  
obligations arising from that educational program. 2495

Sec. 4731.241. The state medical board may solicit and accept 2496  
grants and services from public and private sources for the 2497  
purpose of developing and maintaining programs that address 2498  
patient safety and education, supply and demand of health care 2499  
professionals, and information sharing with the public and the 2500  
individuals regulated by the board. The board shall not solicit or 2501  
accept a grant or service that would interfere with the board's 2502  
independence or objectivity, as determined by the board. 2503

Money received by the board under this section shall be 2504  
deposited into the state treasury to the credit of the medical 2505  
board education and patient safety fund, which is hereby created. 2506  
The money shall be used solely in accordance with this section. 2507

~~Sec. 4731.283. Not later than ninety days after the effective 2508~~  
~~date of this section, the~~ The state medical board shall approve 2509  
one or more continuing medical education courses of study included 2510  
within the programs certified by the Ohio state medical 2511  
association and the Ohio osteopathic association pursuant to 2512  
section 4731.281 of the Revised Code that assist doctors of 2513  
medicine and doctors of osteopathic medicine in diagnosing and 2514

treating ~~intractable~~ chronic pain, as defined in section 4731.052 2515  
of the Revised Code. 2516

**Sec. 4776.02.** (A) An applicant for an initial license or 2517  
restored license from a licensing agency, ~~or~~ a person seeking to 2518  
satisfy the criteria for being a qualified pharmacy technician 2519  
that are specified in section 4729.42 of the Revised Code, or a 2520  
person seeking to satisfy the requirements to be an employee of a 2521  
pain management clinic as specified in section 4729.552 of the 2522  
Revised Code shall submit a request to the bureau of criminal 2523  
identification and investigation for a criminal records check of 2524  
the applicant or person. The request shall be accompanied by a 2525  
completed copy of the form prescribed under division (C)(1) of 2526  
section 109.572 of the Revised Code, a set of fingerprint 2527  
impressions obtained as described in division (C)(2) of that 2528  
section, and the fee prescribed under division (C)(3) of that 2529  
section. The applicant or person shall ask the superintendent of 2530  
the bureau of criminal identification and investigation in the 2531  
request to obtain from the federal bureau of investigation any 2532  
information it has pertaining to the applicant or person. 2533

An applicant or person requesting a criminal records check 2534  
shall provide the bureau of criminal identification and 2535  
investigation with the applicant's or person's name and address 2536  
and, regarding an applicant, with the licensing agency's name and 2537  
address. 2538

(B) Upon receipt of the completed form, the set of 2539  
fingerprint impressions, and the fee provided for in division (A) 2540  
of this section, the superintendent of the bureau of criminal 2541  
identification and investigation shall conduct a criminal records 2542  
check of the applicant or person under division (B) of section 2543  
109.572 of the Revised Code. Upon completion of the criminal 2544  
records check, the superintendent shall do whichever of the 2545

following is applicable: 2546

(1) If the request was submitted by an applicant for an 2547  
initial license or restored license, report the results of the 2548  
criminal records check and any information the federal bureau of 2549  
investigation provides to the licensing agency identified in the 2550  
request for a criminal records check; 2551

(2) If the request was submitted by a person seeking to 2552  
satisfy the criteria for being a qualified pharmacy technician 2553  
that are specified in section 4729.42 of the Revised Code or a 2554  
person seeking to satisfy the requirements to be an employee of a 2555  
pain management clinic as specified in section 4729.552 of the 2556  
Revised Code, do both of the following: 2557

(a) Report the results of the criminal records check and any 2558  
information the federal bureau of investigation provides to the 2559  
person who submitted the request; 2560

(b) Report the results of the portion of the criminal records 2561  
check performed by the bureau of criminal identification and 2562  
investigation under division (B)(1) of section 109.572 of the 2563  
Revised Code to the employer or potential employer specified in 2564  
the request of the person who submitted the request and send a 2565  
letter to that employer or potential employer regarding the 2566  
information provided by the federal bureau of investigation that 2567  
states either that based on that information there is no record of 2568  
any conviction or that based on that information the person who 2569  
submitted the request may not meet the criteria that are specified 2570  
in section 4729.42 of the Revised Code, whichever is applicable. 2571

**Sec. 4776.04.** The results of any criminal records check 2572  
conducted pursuant to a request made under this chapter and any 2573  
report containing those results, including any information the 2574  
federal bureau of investigation provides, are not public records 2575  
for purposes of section 149.43 of the Revised Code and shall not 2576

be made available to any person or for any purpose other than as follows: 2577  
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(A) If the request for the criminal records check was submitted by an applicant for an initial license or restored license, as follows: 2579  
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(1) The superintendent of the bureau of criminal identification and investigation shall make the results available to the licensing agency for use in determining, under the agency's authorizing chapter of the Revised Code, whether the applicant who is the subject of the criminal records check should be granted a license under that chapter. 2582  
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(2) The licensing agency shall make the results available to the applicant who is the subject of the criminal records check. 2588  
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(B) If the request for the criminal records check was submitted by a person seeking to satisfy the criteria for being a qualified pharmacy technician that are specified in section 4729.42 of the Revised Code or a person seeking to satisfy the requirements to be an employee of a pain management clinic as specified in section 4729.552 of the Revised Code, the superintendent of the bureau of criminal identification and investigation shall make the results available in accordance with the following: 2590  
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(1) The superintendent shall make the results of the criminal records check, including any information the federal bureau of investigation provides, available to the person who submitted the request and is the subject of the criminal records check. 2599  
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(2) The superintendent shall make the results of the portion of the criminal records check performed by the bureau of criminal identification and investigation under division (B)(1) of section 109.572 of the Revised Code available to the employer or potential employer specified in the request of the person who submitted the 2603  
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request and shall send a letter of the type described in division 2608  
(B)(2) of section 4776.02 of the Revised Code to that employer or 2609  
potential employer regarding the information provided by the 2610  
federal bureau of investigation that contains one of the types of 2611  
statements described in that division. 2612

Sec. 5111.085. Not later than July 1, 2012, the department of 2613  
job and family services shall adopt rules in accordance with 2614  
Chapter 119. of the Revised Code to implement a coordinated 2615  
services program for medicaid recipients who are found to have 2616  
obtained prescription drugs under the medicaid program at a 2617  
frequency or in an amount that is not medically necessary. The 2618  
program shall be implemented in a manner that is consistent with 2619  
section 1915(a)(2) of the "Social Security Act," 95 Stat. 810 2620  
(1981), 42 U.S.C. 1396(a)(2), as amended, and 42 C.F.R. 431.54(e). 2621

**Sec. 5111.172.** (A) When contracting under section 5111.17 of 2622  
the Revised Code with a managed care organization that is a health 2623  
insuring corporation, the department of job and family services 2624  
may require the health insuring corporation to provide coverage of 2625  
prescription drugs for medicaid recipients enrolled in the health 2626  
insuring corporation. In providing the required coverage, the 2627  
health insuring corporation may, subject to the department's 2628  
approval, use strategies for the management of drug utilization. 2629

(B) As used in this division, "controlled substance" has the 2630  
same meaning as in section 3719.01 of the Revised Code. 2631

If a health insuring corporation is required under this 2632  
section to provide coverage of prescription drugs, the department 2633  
shall permit the health insuring corporation to develop and 2634  
implement a pharmacy utilization management program under which 2635  
prior authorization through the program is established as a 2636  
condition of obtaining a controlled substance pursuant to a 2637

~~prescription. The program may include processes for requiring 2638  
medicaid recipients at high risk for fraud or abuse involving 2639  
controlled substances to have their prescriptions for controlled 2640  
substances filled by a pharmacy, medical provider, or health care 2641  
facility designated by the program. 2642~~

Sec. 5111.179. Each contract the department of job and family 2643  
services enters into with a managed care organization under 2644  
section 5111.17 of the Revised Code shall require the managed care 2645  
organization to implement a coordinated services program for 2646  
medicaid recipients enrolled in the organization who are found to 2647  
have obtained prescription drugs under the medicaid program at a 2648  
frequency or in an amount that is not medically necessary. The 2649  
program shall be implemented in a manner that is consistent with 2650  
section 1915(a)(2) of the "Social Security Act," 95 Stat. 810 2651  
(1981), 42 U.S.C. 1396(a)(2), as amended, and 42 C.F.R. 431.54(e). 2652

Sec. 5111.1710. Each contract the department of job and 2653  
family services enters into with a managed care organization under 2654  
section 5111.17 of the Revised Code shall require the managed care 2655  
organization to enter into a data security agreement with the 2656  
state board of pharmacy governing the managed care organization's 2657  
use of the board's drug database established and maintained under 2658  
section 4729.75 of the Revised Code. 2659

This section does not apply if the board no longer maintains 2660  
the drug database. 2661

**Section 2.** That existing sections 3719.08, 4715.30, 4729.01, 2662  
4729.071, 4729.29, 4729.51, 4729.54, 4729.541, 4729.55, 4729.75, 2663  
4729.77, 4729.78, 4729.79, 4729.80, 4729.81, 4729.82, 4729.83, 2664  
4729.84, 4729.99, 4731.052, 4731.22, 4731.283, 4776.02, 4776.04, 2665  
and 5111.172 of the Revised Code are hereby repealed. 2666

**Section 3.** This act is hereby declared to be an emergency 2667  
measure necessary for the immediate preservation of the public 2668  
peace, health, and safety. The reason for such necessity is that 2669  
the incidence of unintentional drug poisoning in this state has 2670  
increased significantly in recent years and is now a leading cause 2671  
of death among the state's citizens. Therefore, this act shall go 2672  
into immediate effect. 2673

**Section 4.** (A) The State Board of Pharmacy shall consider 2674  
improvements to the state's methods of monitoring, through the 2675  
drug database established and maintained under section 4729.75 of 2676  
the Revised Code, the misuse and diversion of controlled 2677  
substances. Not later than six months after the effective date of 2678  
this section, the Board shall prepare a report of its findings and 2679  
recommendations. 2680

(B) In preparing the report, the Board shall include all of 2681  
the following: 2682

(1) Recommendations on the establishment of a real-time drug 2683  
database that permits information to be immediately submitted to 2684  
the database and immediately accessible to the individuals 2685  
authorized to access information in the database; 2686

(2) Recommendations on potential improvements to the Board's 2687  
existing drug database, including both of the following: 2688

(a) Improvements that are necessary to facilitate information 2689  
exchange between the database and database users; 2690

(b) Improvements that allow a drug utilization review to 2691  
occur whereby patient use of controlled substances is monitored. 2692

(3) The potential cost of upgrading the Board's existing drug 2693  
database or establishing a new database to monitor the misuse or 2694  
diversion of controlled substances in this state; 2695

(4) Information on the availability of, and methods to secure, federal grants necessary to implement the Board's recommendations; 2696  
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(5) A description of any other matters the Board considers relevant to the report. 2699  
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(C) On completion of the report, the Board shall submit copies to the Speaker of the House of Representatives, President of the Senate, and Governor. 2701  
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**Section 5.** Section 5111.179 of the Revised Code, as enacted by this act, shall be implemented by the Department of Job and Family Services not later than July 1, 2012. On and after the Department's implementation date, that section applies to contracts under section 5111.17 of the Revised Code as follows: 2704  
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(A) To each contract the Department enters into with a managed care organization on or after the Department's implementation date; 2709  
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(B) To each contract between the Department and a managed care organization that is in effect on the Department's implementation date if on or after that date the contract is renewed or the contract is amended or otherwise modified. 2712  
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**Section 6.** Section 5111.1710 of the Revised Code, as enacted by this act, shall be implemented by the Department of Job and Family Services not later than one year after the effective date of this section. On and after the Department's implementation date, that section applies to contracts under section 5111.17 of the Revised Code as follows: 2716  
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(A) To each contract the Department enters into with a managed care organization on or after the Department's implementation date; 2722  
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(B) To each contract between the Department and a managed 2725  
care organization that is in effect on the Department's 2726  
implementation date if on or after that date the contract is 2727  
renewed or the contract is amended or otherwise modified. 2728

**Section 7.** Section 4731.22 of the Revised Code is presented 2729  
in this act as a composite of the section as amended by Am. Sub. 2730  
H.B. 280, Sub. H.B. 525, and Sub. S.B. 229 of the 127th General 2731  
Assembly. The General Assembly, applying the principle stated in 2732  
division (B) of section 1.52 of the Revised Code that amendments 2733  
are to be harmonized if reasonably capable of simultaneous 2734  
operation, finds that the composite is the resulting version of 2735  
the section in effect prior to the effective date of the section 2736  
as presented in this act. 2737