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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 Senators Bacon, Beagle, Brown, Cafaro, Cates, Daniels, Faber, Gillmor, Hite, Hughes, Lehner, Manning, Niehaus, Obhof, Oelslager, Patton, Sawyer, Schaffer, Schiavoni, Smith, Stewart, Tavares, Widener, Wilson

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A B I L L

To amend sections 109.57, 325.19, 3719.08, 4715.30, 1
4723.28, 4729.01, 4729.071, 4729.29, 4729.51, 2
4729.54, 4729.541, 4729.55, 4729.75, 4729.77, 3
4729.78, 4729.79, 4729.80, 4729.81, 4729.82, 4
4729.83, 4729.99, 4731.052, 4731.22, 4731.283, 5
4776.02, 4776.04, and 5111.172; to amend, for the 6
purpose of adopting new section numbers as 7
indicated in parentheses, sections 4729.79 8

(4729.80), 4729.80 (4729.81), 4729.81 (4729.82), 9
4729.82 (4729.83), 4729.83 (4729.84), and 4729.84 10
(4729.85); and to enact new section 4729.79 and 11
sections 109.90, 313.212, 3719.031, 3793.22, 12
4121.50, 4715.302, 4723.064, 4723.487, 4725.092, 13
4729.162, 4729.291, 4729.552, 4729.571, 4729.69, 14
4729.86, 4730.53, 4731.054, 4731.055, 4731.241, 15
4731.391, 5111.085, 5111.179, and 5111.1710 of the 16
Revised Code to establish and modify laws 17
regarding the prevention of prescription drug 18
abuse, to provide that certain county employees 19
when separating from county service as a result of 20
a transfer of the assets of a county hospital are 21
not entitled to unused vacation leave from the 22
county when the employee accepts employment with 23
the acquiring entity and the entity assumes the 24
unused vacation leave accrued to the employee's 25
credit, and to declare an emergency. 26

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

Section 1. That sections 109.57, 325.19, 3719.08, 4715.30, 27
4723.28, 4729.01, 4729.071, 4729.29, 4729.51, 4729.54, 4729.541, 28
4729.55, 4729.75, 4729.77, 4729.78, 4729.79, 4729.80, 4729.81, 29
4729.82, 4729.83, 4729.99, 4731.052, 4731.22, 4731.283, 4776.02, 30
4776.04, and 5111.172 be amended; sections 4729.79 (4729.80), 31
4729.80 (4729.81), 4729.81 (4729.82), 4729.82 (4729.83), 4729.83 32
(4729.84), and 4729.84 (4729.85) be amended for the purpose of 33
adopting new section numbers as indicated in parentheses; and new 34
section 4729.79 and sections 109.90, 313.212, 3719.031, 3793.22, 35
4121.50, 4715.302, 4723.064, 4723.487, 4725.092, 4729.162, 36
4729.291, 4729.552, 4729.571, 4729.69, 4729.86, 4730.53, 4731.054, 37
4731.055, 4731.241, 4731.391, 5111.085, 5111.179, and 5111.1710 of 38

the Revised Code be enacted to read as follows: 39

Sec. 109.57. (A)(1) The superintendent of the bureau of 40
criminal identification and investigation shall procure from 41
wherever procurable and file for record photographs, pictures, 42
descriptions, fingerprints, measurements, and other information 43
that may be pertinent of all persons who have been convicted of 44
committing within this state a felony, any crime constituting a 45
misdemeanor on the first offense and a felony on subsequent 46
offenses, or any misdemeanor described in division (A)(1)(a), 47
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 48
of all children under eighteen years of age who have been 49
adjudicated delinquent children for committing within this state 50
an act that would be a felony or an offense of violence if 51
committed by an adult or who have been convicted of or pleaded 52
guilty to committing within this state a felony or an offense of 53
violence, and of all well-known and habitual criminals. The person 54
in charge of any county, multicounty, municipal, municipal-county, 55
or multicounty-municipal jail or workhouse, community-based 56
correctional facility, halfway house, alternative residential 57
facility, or state correctional institution and the person in 58
charge of any state institution having custody of a person 59
suspected of having committed a felony, any crime constituting a 60
misdemeanor on the first offense and a felony on subsequent 61
offenses, or any misdemeanor described in division (A)(1)(a), 62
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 63
having custody of a child under eighteen years of age with respect 64
to whom there is probable cause to believe that the child may have 65
committed an act that would be a felony or an offense of violence 66
if committed by an adult shall furnish such material to the 67
superintendent of the bureau. Fingerprints, photographs, or other 68
descriptive information of a child who is under eighteen years of 69

age, has not been arrested or otherwise taken into custody for 70
committing an act that would be a felony or an offense of violence 71
who is not in any other category of child specified in this 72
division, if committed by an adult, has not been adjudicated a 73
delinquent child for committing an act that would be a felony or 74
an offense of violence if committed by an adult, has not been 75
convicted of or pleaded guilty to committing a felony or an 76
offense of violence, and is not a child with respect to whom there 77
is probable cause to believe that the child may have committed an 78
act that would be a felony or an offense of violence if committed 79
by an adult shall not be procured by the superintendent or 80
furnished by any person in charge of any county, multicounty, 81
municipal, municipal-county, or multicounty-municipal jail or 82
workhouse, community-based correctional facility, halfway house, 83
alternative residential facility, or state correctional 84
institution, except as authorized in section 2151.313 of the 85
Revised Code. 86

(2) Every clerk of a court of record in this state, other 87
than the supreme court or a court of appeals, shall send to the 88
superintendent of the bureau a weekly report containing a summary 89
of each case involving a felony, involving any crime constituting 90
a misdemeanor on the first offense and a felony on subsequent 91
offenses, involving a misdemeanor described in division (A)(1)(a), 92
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 93
or involving an adjudication in a case in which a child under 94
eighteen years of age was alleged to be a delinquent child for 95
committing an act that would be a felony or an offense of violence 96
if committed by an adult. The clerk of the court of common pleas 97
shall include in the report and summary the clerk sends under this 98
division all information described in divisions (A)(2)(a) to (f) 99
of this section regarding a case before the court of appeals that 100
is served by that clerk. The summary shall be written on the 101
standard forms furnished by the superintendent pursuant to 102

division (B) of this section and shall include the following 103
information: 104

(a) The incident tracking number contained on the standard 105
forms furnished by the superintendent pursuant to division (B) of 106
this section; 107

(b) The style and number of the case; 108

(c) The date of arrest, offense, summons, or arraignment; 109

(d) The date that the person was convicted of or pleaded 110
guilty to the offense, adjudicated a delinquent child for 111
committing the act that would be a felony or an offense of 112
violence if committed by an adult, found not guilty of the 113
offense, or found not to be a delinquent child for committing an 114
act that would be a felony or an offense of violence if committed 115
by an adult, the date of an entry dismissing the charge, an entry 116
declaring a mistrial of the offense in which the person is 117
discharged, an entry finding that the person or child is not 118
competent to stand trial, or an entry of a nolle prosequi, or the 119
date of any other determination that constitutes final resolution 120
of the case; 121

(e) A statement of the original charge with the section of 122
the Revised Code that was alleged to be violated; 123

(f) If the person or child was convicted, pleaded guilty, or 124
was adjudicated a delinquent child, the sentence or terms of 125
probation imposed or any other disposition of the offender or the 126
delinquent child. 127

If the offense involved the disarming of a law enforcement 128
officer or an attempt to disarm a law enforcement officer, the 129
clerk shall clearly state that fact in the summary, and the 130
superintendent shall ensure that a clear statement of that fact is 131
placed in the bureau's records. 132

(3) The superintendent shall cooperate with and assist 133
sheriffs, chiefs of police, and other law enforcement officers in 134
the establishment of a complete system of criminal identification 135
and in obtaining fingerprints and other means of identification of 136
all persons arrested on a charge of a felony, any crime 137
constituting a misdemeanor on the first offense and a felony on 138
subsequent offenses, or a misdemeanor described in division 139
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 140
Revised Code and of all children under eighteen years of age 141
arrested or otherwise taken into custody for committing an act 142
that would be a felony or an offense of violence if committed by 143
an adult. The superintendent also shall file for record the 144
fingerprint impressions of all persons confined in a county, 145
multicounty, municipal, municipal-county, or multicounty-municipal 146
jail or workhouse, community-based correctional facility, halfway 147
house, alternative residential facility, or state correctional 148
institution for the violation of state laws and of all children 149
under eighteen years of age who are confined in a county, 150
multicounty, municipal, municipal-county, or multicounty-municipal 151
jail or workhouse, community-based correctional facility, halfway 152
house, alternative residential facility, or state correctional 153
institution or in any facility for delinquent children for 154
committing an act that would be a felony or an offense of violence 155
if committed by an adult, and any other information that the 156
superintendent may receive from law enforcement officials of the 157
state and its political subdivisions. 158

(4) The superintendent shall carry out Chapter 2950. of the 159
Revised Code with respect to the registration of persons who are 160
convicted of or plead guilty to a sexually oriented offense or a 161
child-victim oriented offense and with respect to all other duties 162
imposed on the bureau under that chapter. 163

(5) The bureau shall perform centralized recordkeeping 164

functions for criminal history records and services in this state 165
for purposes of the national crime prevention and privacy compact 166
set forth in section 109.571 of the Revised Code and is the 167
criminal history record repository as defined in that section for 168
purposes of that compact. The superintendent or the 169
superintendent's designee is the compact officer for purposes of 170
that compact and shall carry out the responsibilities of the 171
compact officer specified in that compact. 172

(B) The superintendent shall prepare and furnish to every 173
county, multicounty, municipal, municipal-county, or 174
multicounty-municipal jail or workhouse, community-based 175
correctional facility, halfway house, alternative residential 176
facility, or state correctional institution and to every clerk of 177
a court in this state specified in division (A)(2) of this section 178
standard forms for reporting the information required under 179
division (A) of this section. The standard forms that the 180
superintendent prepares pursuant to this division may be in a 181
tangible format, in an electronic format, or in both tangible 182
formats and electronic formats. 183

(C)(1) The superintendent may operate a center for 184
electronic, automated, or other data processing for the storage 185
and retrieval of information, data, and statistics pertaining to 186
criminals and to children under eighteen years of age who are 187
adjudicated delinquent children for committing an act that would 188
be a felony or an offense of violence if committed by an adult, 189
criminal activity, crime prevention, law enforcement, and criminal 190
justice, and may establish and operate a statewide communications 191
network to be known as the Ohio law enforcement gateway to gather 192
and disseminate information, data, and statistics for the use of 193
law enforcement agencies and for other uses specified in this 194
division. The superintendent may gather, store, retrieve, and 195
disseminate information, data, and statistics that pertain to 196

children who are under eighteen years of age and that are gathered 197
pursuant to sections 109.57 to 109.61 of the Revised Code together 198
with information, data, and statistics that pertain to adults and 199
that are gathered pursuant to those sections. 200

(2) The superintendent or the superintendent's designee shall 201
gather information of the nature described in division (C)(1) of 202
this section that pertains to the offense and delinquency history 203
of a person who has been convicted of, pleaded guilty to, or been 204
adjudicated a delinquent child for committing a sexually oriented 205
offense or a child-victim oriented offense for inclusion in the 206
state registry of sex offenders and child-victim offenders 207
maintained pursuant to division (A)(1) of section 2950.13 of the 208
Revised Code and in the internet database operated pursuant to 209
division (A)(13) of that section and for possible inclusion in the 210
internet database operated pursuant to division (A)(11) of that 211
section. 212

(3) In addition to any other authorized use of information, 213
data, and statistics of the nature described in division (C)(1) of 214
this section, the superintendent or the superintendent's designee 215
may provide and exchange the information, data, and statistics 216
pursuant to the national crime prevention and privacy compact as 217
described in division (A)(5) of this section. 218

(4) The attorney general may adopt rules under Chapter 119. 219
of the Revised Code establishing guidelines for the operation of 220
and participation in the Ohio law enforcement gateway. The rules 221
may include criteria for granting and restricting access to 222
information gathered and disseminated through the Ohio law 223
enforcement gateway. The attorney general shall permit the state 224
medical board and board of nursing to access and view, but not 225
alter, information gathered and disseminated through the Ohio law 226
enforcement gateway. 227

The attorney general may appoint a steering committee to 228

advise the attorney general in the operation of the Ohio law enforcement gateway that is comprised of persons who are representatives of the criminal justice agencies in this state that use the Ohio law enforcement gateway and is chaired by the superintendent or the superintendent's designee.

(D)(1) The following are not public records under section 149.43 of the Revised Code:

(a) Information and materials furnished to the superintendent pursuant to division (A) of this section;

(b) Information, data, and statistics gathered or disseminated through the Ohio law enforcement gateway pursuant to division (C)(1) of this section;

(c) Information and materials furnished to any board or person under division (F) or (G) of this section.

(2) The superintendent or the superintendent's designee shall gather and retain information so furnished under division (A) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for the purposes described in division (C)(2) of this section.

(E) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed in division (A)(1), (3), (4), (5), or (6) of section 109.572 of the Revised Code, the request shall be treated as a

single request and only one fee shall be charged. 260

(F)(1) As used in division (F)(2) of this section, "head 261
start agency" means an entity in this state that has been approved 262
to be an agency for purposes of subchapter II of the "Community 263
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 264
as amended. 265

(2)(a) In addition to or in conjunction with any request that 266
is required to be made under section 109.572, 2151.86, 3301.32, 267
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 268
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 269
Code or that is made under section 3314.41, 3319.392, or 3326.25 270
of the Revised Code, the board of education of any school 271
district; the director of developmental disabilities; any county 272
board of developmental disabilities; any entity under contract 273
with a county board of developmental disabilities; the chief 274
administrator of any chartered nonpublic school; the chief 275
administrator of any home health agency; the chief administrator 276
of or person operating any child day-care center, type A family 277
day-care home, or type B family day-care home licensed or 278
certified under Chapter 5104. of the Revised Code; the 279
administrator of any type C family day-care home certified 280
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 281
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 282
assembly; the chief administrator of any head start agency; the 283
executive director of a public children services agency; a private 284
company described in section 3314.41, 3319.392, or 3326.25 of the 285
Revised Code; or an employer described in division (J)(2) of 286
section 3327.10 of the Revised Code may request that the 287
superintendent of the bureau investigate and determine, with 288
respect to any individual who has applied for employment in any 289
position after October 2, 1989, or any individual wishing to apply 290
for employment with a board of education may request, with regard 291

to the individual, whether the bureau has any information gathered 292
under division (A) of this section that pertains to that 293
individual. On receipt of the request, the superintendent shall 294
determine whether that information exists and, upon request of the 295
person, board, or entity requesting information, also shall 296
request from the federal bureau of investigation any criminal 297
records it has pertaining to that individual. The superintendent 298
or the superintendent's designee also may request criminal history 299
records from other states or the federal government pursuant to 300
the national crime prevention and privacy compact set forth in 301
section 109.571 of the Revised Code. Within thirty days of the 302
date that the superintendent receives a request, the 303
superintendent shall send to the board, entity, or person a report 304
of any information that the superintendent determines exists, 305
including information contained in records that have been sealed 306
under section 2953.32 of the Revised Code, and, within thirty days 307
of its receipt, shall send the board, entity, or person a report 308
of any information received from the federal bureau of 309
investigation, other than information the dissemination of which 310
is prohibited by federal law. 311

(b) When a board of education is required to receive 312
information under this section as a prerequisite to employment of 313
an individual pursuant to section 3319.39 of the Revised Code, it 314
may accept a certified copy of records that were issued by the 315
bureau of criminal identification and investigation and that are 316
presented by an individual applying for employment with the 317
district in lieu of requesting that information itself. In such a 318
case, the board shall accept the certified copy issued by the 319
bureau in order to make a photocopy of it for that individual's 320
employment application documents and shall return the certified 321
copy to the individual. In a case of that nature, a district only 322
shall accept a certified copy of records of that nature within one 323
year after the date of their issuance by the bureau. 324

(c) Notwithstanding division (F)(2)(a) of this section, in 325
the case of a request under section 3319.39, 3319.391, or 3327.10 326
of the Revised Code only for criminal records maintained by the 327
federal bureau of investigation, the superintendent shall not 328
determine whether any information gathered under division (A) of 329
this section exists on the person for whom the request is made. 330

(3) The state board of education may request, with respect to 331
any individual who has applied for employment after October 2, 332
1989, in any position with the state board or the department of 333
education, any information that a school district board of 334
education is authorized to request under division (F)(2) of this 335
section, and the superintendent of the bureau shall proceed as if 336
the request has been received from a school district board of 337
education under division (F)(2) of this section. 338

(4) When the superintendent of the bureau receives a request 339
for information under section 3319.291 of the Revised Code, the 340
superintendent shall proceed as if the request has been received 341
from a school district board of education and shall comply with 342
divisions (F)(2)(a) and (c) of this section. 343

(5) When a recipient of a classroom reading improvement grant 344
paid under section 3301.86 of the Revised Code requests, with 345
respect to any individual who applies to participate in providing 346
any program or service funded in whole or in part by the grant, 347
the information that a school district board of education is 348
authorized to request under division (F)(2)(a) of this section, 349
the superintendent of the bureau shall proceed as if the request 350
has been received from a school district board of education under 351
division (F)(2)(a) of this section. 352

(G) In addition to or in conjunction with any request that is 353
required to be made under section 3701.881, 3712.09, 3721.121, or 354
3722.151 of the Revised Code with respect to an individual who has 355
applied for employment in a position that involves providing 356

direct care to an older adult, the chief administrator of a home 357
health agency, hospice care program, home licensed under Chapter 358
3721. of the Revised Code, adult day-care program operated 359
pursuant to rules adopted under section 3721.04 of the Revised 360
Code, or adult care facility may request that the superintendent 361
of the bureau investigate and determine, with respect to any 362
individual who has applied after January 27, 1997, for employment 363
in a position that does not involve providing direct care to an 364
older adult, whether the bureau has any information gathered under 365
division (A) of this section that pertains to that individual. 366

In addition to or in conjunction with any request that is 367
required to be made under section 173.27 of the Revised Code with 368
respect to an individual who has applied for employment in a 369
position that involves providing ombudsperson services to 370
residents of long-term care facilities or recipients of 371
community-based long-term care services, the state long-term care 372
ombudsperson, ombudsperson's designee, or director of health may 373
request that the superintendent investigate and determine, with 374
respect to any individual who has applied for employment in a 375
position that does not involve providing such ombudsperson 376
services, whether the bureau has any information gathered under 377
division (A) of this section that pertains to that applicant. 378

In addition to or in conjunction with any request that is 379
required to be made under section 173.394 of the Revised Code with 380
respect to an individual who has applied for employment in a 381
position that involves providing direct care to an individual, the 382
chief administrator of a community-based long-term care agency may 383
request that the superintendent investigate and determine, with 384
respect to any individual who has applied for employment in a 385
position that does not involve providing direct care, whether the 386
bureau has any information gathered under division (A) of this 387
section that pertains to that applicant. 388

On receipt of a request under this division, the 389
superintendent shall determine whether that information exists 390
and, on request of the individual requesting information, shall 391
also request from the federal bureau of investigation any criminal 392
records it has pertaining to the applicant. The superintendent or 393
the superintendent's designee also may request criminal history 394
records from other states or the federal government pursuant to 395
the national crime prevention and privacy compact set forth in 396
section 109.571 of the Revised Code. Within thirty days of the 397
date a request is received, the superintendent shall send to the 398
requester a report of any information determined to exist, 399
including information contained in records that have been sealed 400
under section 2953.32 of the Revised Code, and, within thirty days 401
of its receipt, shall send the requester a report of any 402
information received from the federal bureau of investigation, 403
other than information the dissemination of which is prohibited by 404
federal law. 405

(H) Information obtained by a government entity or person 406
under this section is confidential and shall not be released or 407
disseminated. 408

(I) The superintendent may charge a reasonable fee for 409
providing information or criminal records under division (F)(2) or 410
(G) of this section. 411

(J) As used in this section, "sexually oriented offense" and 412
"child-victim oriented offense" have the same meanings as in 413
section 2950.01 of the Revised Code. 414

Sec. 109.90. (A) The attorney general shall collaborate with 415
the state board of pharmacy and director of alcohol and drug 416
addiction services in the establishment and administration of a 417
drug take-back program, as provided under section 4729.69 of the 418
Revised Code. The office of the attorney general is solely 419

responsible for the costs incurred in the establishment and 420
administration of the program. 421

(B) The attorney general may accept grants, gifts, or 422
donations for purposes of the program. Money received under this 423
division or section 3793.22 or 4729.69 of the Revised Code shall 424
be deposited into the state treasury to the credit of the drug 425
take-back program fund, which is hereby created. Money credited to 426
the fund shall be used solely for purposes of the program. 427

Sec. 313.212. If the coroner determines that a drug overdose 428
is the cause of death of a person, the coroner may provide a 429
notice of the death to the state medical board. The coroner may 430
include in the notice any information relating to the drug that 431
resulted in the overdose, including the individual authorized 432
under Chapter 4731. of the Revised Code to practice medicine or 433
surgery, osteopathic medicine or surgery, or podiatric medicine or 434
surgery who prescribed the drug to the decedent. 435

Sec. 325.19. (A)(1) The granting of vacation leave under 436
division (A)(1) of this section is subject to divisions (A)(2) and 437
(3) of this section. Each full-time employee in the several 438
offices and departments of the county service, including full-time 439
hourly rate employees, after service of one year with the county 440
or any political subdivision of the state, shall have earned and 441
will be due upon the attainment of the first year of employment, 442
and annually thereafter, eighty hours of vacation leave with full 443
pay. One year of service shall be computed on the basis of 444
twenty-six biweekly pay periods. A full-time county employee with 445
eight or more years of service with the county or any political 446
subdivision of the state shall have earned and is entitled to one 447
hundred twenty hours of vacation leave with full pay. A full-time 448
county employee with fifteen or more years of service with the 449
county or any political subdivision of the state shall have earned 450

and is entitled to one hundred sixty hours of vacation leave with 451
full pay. A full-time county employee with twenty-five years of 452
service with the county or any political subdivision of the state 453
shall have earned and is entitled to two hundred hours of vacation 454
leave with full pay. Such vacation leave shall accrue to the 455
employee at the rate of three and one-tenth hours each biweekly 456
period for those entitled to eighty hours per year; four and 457
six-tenths hours each biweekly period for those entitled to one 458
hundred twenty hours per year; six and two-tenths hours each 459
biweekly period for those entitled to one hundred sixty hours per 460
year; and seven and seven-tenths hours each biweekly period for 461
those entitled to two hundred hours per year. 462

The appointing authorities of the offices and departments of 463
the county service may permit all or any part of a person's prior 464
service with any regional council of government established in 465
accordance with Chapter 167. of the Revised Code to be considered 466
service with the county or a political subdivision of the state 467
for the purpose of determining years of service under this 468
division. 469

(2) Full-time employees granted vacation leave under division 470
(A)(1) of this section who render any standard of service other 471
than forty hours per week as described in division ~~(J)~~(K) of this 472
section and who are in active pay status in a biweekly pay period, 473
shall accrue a number of hours of vacation leave during each such 474
pay period that bears the same ratio to the number of hours 475
specified in division (A)(1) of this section as their number of 476
hours which are accepted as full-time in active pay status, 477
excluding overtime hours, bears to eighty hours. 478

(3) Full-time employees granted vacation leave under division 479
(A)(1) of this section who are in active pay status in a biweekly 480
pay period for less than eighty hours or the number of hours of 481
service otherwise accepted as full-time by their employing office 482

or department shall accrue a number of hours of vacation leave 483
during that pay period that bears the same ratio to the number of 484
hours specified in division (A)(1) of this section as their number 485
of hours in active pay status, excluding overtime hours, bears to 486
eighty or the number of hours of service accepted as full-time, 487
whichever is applicable. 488

(B) A board of county commissioners, by resolution, may grant 489
vacation leave with full pay to part-time county employees. A 490
part-time county employee shall be eligible for vacation leave 491
with full pay upon the attainment of the first year of employment, 492
and annually thereafter. The ratio between the hours worked and 493
the vacation hours awarded to a part-time employee shall be the 494
same as the ratio between the hours worked and the vacation hours 495
earned by a full-time employee as provided for in this section. 496

(C) Days specified as holidays in section 124.19 of the 497
Revised Code shall not be charged to an employee's vacation leave. 498
Vacation leave shall be taken by the employee during the year in 499
which it accrued and prior to the next recurrence of the 500
anniversary date of the employee's employment, provided that the 501
appointing authority may, in special and meritorious cases, permit 502
such employee to accumulate and carry over the employee's vacation 503
leave to the following year. No vacation leave shall be carried 504
over for more than three years. An employee is entitled to 505
compensation, at the employee's current rate of pay, for the 506
prorated portion of any earned but unused vacation leave for the 507
current year to the employee's credit at time of separation, and 508
in addition shall be compensated for any unused vacation leave 509
accrued to the employee's credit, with the permission of the 510
appointing authority, for the three years immediately preceding 511
the last anniversary date of employment. 512

(D)(1) In addition to vacation leave, a full-time county 513
employee is entitled to eight hours of holiday pay for New Year's 514

day, Martin Luther King day, Washington-Lincoln day, Memorial day, 515
Independence day, Labor day, Columbus day, Veterans' day, 516
Thanksgiving day, and Christmas day, of each year. Except as 517
provided in division (D)(2) of this section, holidays shall occur 518
on the days specified in section 1.14 of the Revised Code. If any 519
of those holidays fall on Saturday, the Friday immediately 520
preceding shall be observed as the holiday. If any of those 521
holidays fall on Sunday, the Monday immediately succeeding shall 522
be observed as the holiday. If an employee's work schedule is 523
other than Monday through Friday, the employee is entitled to 524
holiday pay for holidays observed on the employee's day off 525
regardless of the day of the week on which they are observed. 526

(2)(a) When a classified employee of a county board of 527
developmental disabilities works at a site maintained by a 528
government entity other than the board, such as a public school, 529
the board may adjust the employee's holiday schedule to conform to 530
the schedule adopted by the government entity. Under an adjusted 531
holiday schedule, an employee shall receive the number of hours of 532
holiday pay granted under division (D)(1) of this section. 533

(b) Pursuant to division (J)(6) of section 339.06 of the 534
Revised Code, a county hospital may observe Martin Luther King 535
day, Washington-Lincoln day, Columbus day, and Veterans' day on 536
days other than those specified in section 1.14 of the Revised 537
Code. 538

(E) In the case of the death of a county employee, the unused 539
vacation leave and unpaid overtime to the credit of the employee 540
shall be paid in accordance with section 2113.04 of the Revised 541
Code, or to the employee's estate. 542

(F) Notwithstanding this section or any other section of the 543
Revised Code, any appointing authority of a county office, 544
department, commission, board, or body may, upon notification to 545
the board of county commissioners, establish alternative schedules 546

of vacation leave and holidays for employees of the appointing 547
authority for whom the state employment relations board has not 548
established an appropriate bargaining unit pursuant to section 549
4117.06 of the Revised Code, as long as the alternative schedules 550
are not inconsistent with the provisions of at least one 551
collective bargaining agreement covering other employees of that 552
appointing authority, if such an agreement exists. If no such 553
collective bargaining agreement exists, an appointing authority, 554
upon notification to the board of county commissioners, may 555
establish an alternative schedule of vacation leave and holidays 556
for its employees that does not diminish the vacation leave and 557
holiday benefits granted by this section. 558

(G) The employees of a county children services board that 559
establishes vacation benefits under section 5153.12 of the Revised 560
Code are exempt from division (A) of this section. 561

(H) The provisions of this section do not apply to 562
superintendents and management employees of county boards of 563
developmental disabilities. 564

(I) Division (A) of this section does not apply to an 565
employee of a county board of developmental disabilities who works 566
at, or provides transportation services to pupils of, a special 567
education program provided by the county board pursuant to 568
division (A)(4) of section 5126.05 of the Revised Code, if the 569
employee's employment is based on a school year and the employee 570
is not subject to a contract with the county board that provides 571
for division (A) of this section to apply to the employee. 572

(J) Notwithstanding division (C) of this section or any other 573
section of the Revised Code, if a separation from county service 574
occurs in connection with the lease, sale, or other transfer of 575
all or substantially all the business and assets of a county 576
hospital organized under Chapter 339. of the Revised Code to a 577
private corporation or other entity, the appointing authority 578

shall have no obligation to pay any compensation with respect to 579
unused vacation leave accrued to the credit of an employee who 580
accepts employment with the acquiring corporation or other entity, 581
if at the effective time of separation the acquiring corporation 582
or other entity expressly assumes such unused vacation leave 583
accrued to the employee's credit. 584

(K) As used in this section: 585

(1) "Full-time employee" means an employee whose regular 586
hours of service for a county total forty hours per week, or who 587
renders any other standard of service accepted as full-time by an 588
office, department, or agency of county service. 589

(2) "Part-time employee" means an employee whose regular 590
hours of service for a county total less than forty hours per 591
week, or who renders any other standard of service accepted as 592
part-time by an office, department, or agency of county service, 593
and whose hours of county service total at least five hundred 594
twenty hours annually. 595

(3) "Management employee" has the same meaning as in section 596
5126.20 of the Revised Code. 597

Sec. 3719.031. If the state board of pharmacy determines that 598
there is clear and convincing evidence that the method used by a 599
wholesaler of controlled substances licensed under section 600
3719.021 of the Revised Code to distribute controlled substances 601
presents a danger of immediate and serious harm to others, the 602
board may suspend the wholesaler's license without a hearing. The 603
board shall follow the procedure for suspension without a prior 604
hearing in section 119.07 of the Revised Code. The suspension 605
shall remain in effect, unless removed by the board, until the 606
board's final adjudication order becomes effective, except that if 607
the board does not issue its final adjudication order within 608
ninety days after the hearing, the suspension shall be void on the 609

ninety-first day after the suspension. 610

Sec. 3719.08. (A) Whenever a manufacturer sells a controlled 611
substance, and whenever a wholesaler sells a controlled substance 612
in a package the wholesaler has prepared, the manufacturer or 613
wholesaler shall securely affix to each package in which the 614
controlled substance is contained a label showing in legible 615
English the name and address of the vendor and the quantity, kind, 616
and form of controlled substance contained therein. No person, 617
except a pharmacist for the purpose of dispensing a controlled 618
substance upon a prescription shall alter, deface, or remove any 619
label so affixed. 620

(B) Except as provided in division (C) of this section, when 621
a pharmacist dispenses any controlled substance on a prescription 622
for use by a patient, or supplies a controlled substance to a 623
licensed health professional authorized to prescribe drugs for use 624
by the professional in personally furnishing patients with 625
controlled substances, the pharmacist shall affix to the container 626
in which the controlled substance is dispensed or supplied a label 627
showing the following: 628

(1) The name and address of the pharmacy dispensing or 629
supplying the controlled substance; 630

(2) The name of the patient for whom the controlled substance 631
is prescribed and, if the patient is an animal, the name of the 632
owner and the species of the animal; 633

(3) The name of the prescriber; 634

(4) All directions for use stated on the prescription or 635
provided by the prescriber; 636

(5) The date on which the controlled substance was dispensed 637
or supplied; 638

(6) The name, quantity, and strength of the controlled 639

substance and, if applicable, the name of the distributor or 640
manufacturer. 641

(C) The requirements of division (B) of this section do not 642
apply when a controlled substance is prescribed or supplied for 643
administration to an ultimate user who is institutionalized. 644

(D) A licensed health professional authorized to prescribe 645
drugs who personally furnishes a controlled substance to a patient 646
shall comply with division ~~(B)~~(A) of section ~~4729.29~~ 4729.291 of 647
the Revised Code with respect to labeling and packaging of the 648
controlled substance. 649

(E) No person shall alter, deface, or remove any label 650
affixed pursuant to this section as long as any of the original 651
contents remain. 652

(F) Every label for a schedule II, III, or IV controlled 653
substance shall contain the following warning: 654

"Caution: federal law prohibits the transfer of this drug to 655
any person other than the patient for whom it was prescribed." 656

Sec. 3793.22. (A) The director of alcohol and drug addiction 657
services shall collaborate with the state board of pharmacy and 658
attorney general in the establishment and administration of a drug 659
take-back program, as provided under section 4729.69 of the 660
Revised Code. 661

(B) The department may accept grants, gifts, or donations for 662
purposes of the program. Money received under this division shall 663
be deposited into the drug take-back program fund established 664
under section 109.90 of the Revised Code. 665

Sec. 4121.50. Not later than July 1, 2012, the administrator 666
of workers' compensation shall adopt rules in accordance with 667
Chapter 119. of the Revised Code to implement a coordinated 668

services program for claimants under this chapter or Chapter 669
4123., 4127., or 4131. of the Revised Code who are found to have 670
obtained prescription drugs that were reimbursed pursuant to an 671
order of the administrator or of the industrial commission or by a 672
self-insuring employer but were obtained at a frequency or in an 673
amount that is not medically necessary. The program shall be 674
implemented in a manner that is substantially similar to the 675
coordinated services programs established for the medicaid program 676
under section 5111.085 and 5111.179 of the Revised Code. 677

Sec. 4715.30. (A) An applicant for or holder of a certificate 678
or license issued under this chapter is subject to disciplinary 679
action by the state dental board for any of the following reasons: 680

(1) Employing or cooperating in fraud or material deception 682
in applying for or obtaining a license or certificate; 683

(2) Obtaining or attempting to obtain money or anything of 684
value by intentional misrepresentation or material deception in 685
the course of practice; 686

(3) Advertising services in a false or misleading manner or 687
violating the board's rules governing time, place, and manner of 688
advertising; 689

(4) Conviction of a misdemeanor committed in the course of 690
practice or of any felony; 691

(5) Engaging in lewd or immoral conduct in connection with 692
the provision of dental services; 693

(6) Selling, prescribing, giving away, or administering drugs 694
for other than legal and legitimate therapeutic purposes, or 695
conviction of violating any law of this state or the federal 696
government regulating the possession, distribution, or use of any 697
drug; 698

(7) Providing or allowing dental hygienists, expanded	699
function dental auxiliaries, or other practitioners of auxiliary	700
dental occupations working under the certificate or license	701
holder's supervision, or a dentist holding a temporary limited	702
continuing education license under division (C) of section 4715.16	703
of the Revised Code working under the certificate or license	704
holder's direct supervision, to provide dental care that departs	705
from or fails to conform to accepted standards for the profession,	706
whether or not injury to a patient results;	707
(8) Inability to practice under accepted standards of the	708
profession because of physical or mental disability, dependence on	709
alcohol or other drugs, or excessive use of alcohol or other	710
drugs;	711
(9) Violation of any provision of this chapter or any rule	712
adopted thereunder;	713
(10) Failure to use universal blood and body fluid	714
precautions established by rules adopted under section 4715.03 of	715
the Revised Code;	716
(11) Waiving the payment of all or any part of a deductible	717
or copayment that a patient, pursuant to a health insurance or	718
health care policy, contract, or plan that covers dental services,	719
would otherwise be required to pay if the waiver is used as an	720
enticement to a patient or group of patients to receive health	721
care services from that provider-;i	722
(12) Advertising that the certificate or license holder will	723
waive the payment of all or any part of a deductible or copayment	724
that a patient, pursuant to a health insurance or health care	725
policy, contract, or plan that covers dental services, would	726
otherwise be required to payi	727
<u>(13) Failure to comply with section 4729.79 of the Revised</u>	728
<u>Code, unless the state board of pharmacy no longer maintains a</u>	729

drug database pursuant to section 4729.75 of the Revised Code. 730

(B) A manager, proprietor, operator, or conductor of a dental 731
facility shall be subject to disciplinary action if any dentist, 732
dental hygienist, expanded function dental auxiliary, or qualified 733
personnel providing services in the facility is found to have 734
committed a violation listed in division (A) of this section and 735
the manager, proprietor, operator, or conductor knew of the 736
violation and permitted it to occur on a recurring basis. 737

(C) Subject to Chapter 119. of the Revised Code, the board 738
may take one or more of the following disciplinary actions if one 739
or more of the grounds for discipline listed in divisions (A) and 740
(B) of this section exist: 741

(1) Censure the license or certificate holder; 742

(2) Place the license or certificate on probationary status 743
for such period of time the board determines necessary and require 744
the holder to: 745

(a) Report regularly to the board upon the matters which are 746
the basis of probation; 747

(b) Limit practice to those areas specified by the board; 748

(c) Continue or renew professional education until a 749
satisfactory degree of knowledge or clinical competency has been 750
attained in specified areas. 751

(3) Suspend the certificate or license; 752

(4) Revoke the certificate or license. 753

Where the board places a holder of a license or certificate 754
on probationary status pursuant to division (C)(2) of this 755
section, the board may subsequently suspend or revoke the license 756
or certificate if it determines that the holder has not met the 757
requirements of the probation or continues to engage in activities 758
that constitute grounds for discipline pursuant to division (A) or 759

(B) of this section. 760

Any order suspending a license or certificate shall state the 761
conditions under which the license or certificate will be 762
restored, which may include a conditional restoration during which 763
time the holder is in a probationary status pursuant to division 764
(C)(2) of this section. The board shall restore the license or 765
certificate unconditionally when such conditions are met. 766

(D) If the physical or mental condition of an applicant or a 767
license or certificate holder is at issue in a disciplinary 768
proceeding, the board may order the license or certificate holder 769
to submit to reasonable examinations by an individual designated 770
or approved by the board and at the board's expense. The physical 771
examination may be conducted by any individual authorized by the 772
Revised Code to do so, including a physician assistant, a clinical 773
nurse specialist, a certified nurse practitioner, or a certified 774
nurse-midwife. Any written documentation of the physical 775
examination shall be completed by the individual who conducted the 776
examination. 777

Failure to comply with an order for an examination shall be 778
grounds for refusal of a license or certificate or summary 779
suspension of a license or certificate under division (E) of this 780
section. 781

(E) If the board has reason to believe that a license or 782
certificate holder represents a clear and immediate danger to the 783
public health and safety if the holder is allowed to continue to 784
practice, or if the holder has failed to comply with an order 785
under division (D) of this section, the board may apply to the 786
court of common pleas of the county in which the holder resides 787
for an order temporarily suspending the holder's license or 788
certificate, without a prior hearing being afforded by the board, 789
until the board conducts an adjudication hearing pursuant to 790
Chapter 119. of the Revised Code. If the court temporarily 791

suspends a holder's license or certificate, the board shall give 792
written notice of the suspension personally or by certified mail 793
to the license or certificate holder. Such notice shall include 794
specific facts and reasons for finding a clear and immediate 795
danger to the public health and safety and shall inform the 796
license or certificate holder of the right to a hearing pursuant 797
to Chapter 119. of the Revised Code. 798

(F) Any holder of a certificate or license issued under this 799
chapter who has pleaded guilty to, has been convicted of, or has 800
had a judicial finding of eligibility for intervention in lieu of 801
conviction entered against the holder in this state for aggravated 802
murder, murder, voluntary manslaughter, felonious assault, 803
kidnapping, rape, sexual battery, gross sexual imposition, 804
aggravated arson, aggravated robbery, or aggravated burglary, or 805
who has pleaded guilty to, has been convicted of, or has had a 806
judicial finding of eligibility for treatment or intervention in 807
lieu of conviction entered against the holder in another 808
jurisdiction for any substantially equivalent criminal offense, is 809
automatically suspended from practice under this chapter in this 810
state and any certificate or license issued to the holder under 811
this chapter is automatically suspended, as of the date of the 812
guilty plea, conviction, or judicial finding, whether the 813
proceedings are brought in this state or another jurisdiction. 814
Continued practice by an individual after the suspension of the 815
individual's certificate or license under this division shall be 816
considered practicing without a certificate or license. The board 817
shall notify the suspended individual of the suspension of the 818
individual's certificate or license under this division by 819
certified mail or in person in accordance with section 119.07 of 820
the Revised Code. If an individual whose certificate or license is 821
suspended under this division fails to make a timely request for 822
an adjudicatory hearing, the board shall enter a final order 823
revoking the individual's certificate or license. 824

(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 shall be made available to the board upon request.

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

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

Sec. 4715.302. (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.

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

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

Sec. 4723.064. The board of nursing may access and view, but not alter, information gathered and disseminated through the Ohio

law enforcement gateway established under section 109.57 of the 855
Revised Code. 856

Sec. 4723.28. (A) The board of nursing, by a vote of a 857
quorum, may revoke or may refuse to grant a nursing license, 858
certificate of authority, or dialysis technician certificate to a 859
person found by the board to have committed fraud in passing an 860
examination required to obtain the license, certificate of 861
authority, or dialysis technician certificate or to have committed 862
fraud, misrepresentation, or deception in applying for or securing 863
any nursing license, certificate of authority, or dialysis 864
technician certificate issued by the board. 865

(B) Subject to division (N) of this section, the board of 866
nursing, by a vote of a quorum, may impose one or more of the 867
following sanctions: deny, revoke, suspend, or place restrictions 868
on any nursing license, certificate of authority, or dialysis 869
technician certificate issued by the board; reprimand or otherwise 870
discipline a holder of a nursing license, certificate of 871
authority, or dialysis technician certificate; or impose a fine of 872
not more than five hundred dollars per violation. The sanctions 873
may be imposed for any of the following: 874

(1) Denial, revocation, suspension, or restriction of 875
authority to practice a health care occupation, including nursing 876
or practice as a dialysis technician, for any reason other than a 877
failure to renew, in Ohio or another state or jurisdiction; 878

(2) Engaging in the practice of nursing or engaging in 879
practice as a dialysis technician, having failed to renew a 880
nursing license or dialysis technician certificate issued under 881
this chapter, or while a nursing license or dialysis technician 882
certificate is under suspension; 883

(3) Conviction of, a plea of guilty to, a judicial finding of 884

guilt of, a judicial finding of guilt resulting from a plea of no 885
contest to, or a judicial finding of eligibility for intervention 886
in lieu of conviction for, a misdemeanor committed in the course 887
of practice; 888

(4) Conviction of, a plea of guilty to, a judicial finding of 889
guilt of, a judicial finding of guilt resulting from a plea of no 890
contest to, or a judicial finding of eligibility for intervention 891
in lieu of conviction for, any felony or of any crime involving 892
gross immorality or moral turpitude; 893

(5) Selling, giving away, or administering drugs or 894
therapeutic devices for other than legal and legitimate 895
therapeutic purposes; or conviction of, a plea of guilty to, a 896
judicial finding of guilt of, a judicial finding of guilt 897
resulting from a plea of no contest to, or a judicial finding of 898
eligibility for intervention in lieu of conviction for, violating 899
any municipal, state, county, or federal drug law; 900

(6) Conviction of, a plea of guilty to, a judicial finding of 901
guilt of, a judicial finding of guilt resulting from a plea of no 902
contest to, or a judicial finding of eligibility for intervention 903
in lieu of conviction for, an act in another jurisdiction that 904
would constitute a felony or a crime of moral turpitude in Ohio; 905

(7) Conviction of, a plea of guilty to, a judicial finding of 906
guilt of, a judicial finding of guilt resulting from a plea of no 907
contest to, or a judicial finding of eligibility for intervention 908
in lieu of conviction for, an act in the course of practice in 909
another jurisdiction that would constitute a misdemeanor in Ohio; 910

(8) Self-administering or otherwise taking into the body any 911
dangerous drug, as defined in section 4729.01 of the Revised Code, 912
in any way not in accordance with a legal, valid prescription 913
issued for that individual; 914

(9) Habitual indulgence in the use of controlled substances, 915

other habit-forming drugs, or alcohol or other chemical substances	916
to an extent that impairs ability to practice;	917
(10) Impairment of the ability to practice according to	918
acceptable and prevailing standards of safe nursing care because	919
of habitual or excessive use of drugs, alcohol, or other chemical	920
substances that impair the ability to practice;	921
(11) Impairment of the ability to practice according to	922
acceptable and prevailing standards of safe nursing care because	923
of a physical or mental disability;	924
(12) Assaulting or causing harm to a patient or depriving a	925
patient of the means to summon assistance;	926
(13) Obtaining or attempting to obtain money or anything of	927
value by intentional misrepresentation or material deception in	928
the course of practice;	929
(14) Adjudication by a probate court of being mentally ill or	930
mentally incompetent. The board may restore the person's nursing	931
license or dialysis technician certificate upon adjudication by a	932
probate court of the person's restoration to competency or upon	933
submission to the board of other proof of competency.	934
(15) The suspension or termination of employment by the	935
department of defense or the veterans administration of the United	936
States for any act that violates or would violate this chapter;	937
(16) Violation of this chapter or any rules adopted under it;	938
(17) Violation of any restrictions placed on a nursing	939
license or dialysis technician certificate by the board;	940
(18) Failure to use universal blood and body fluid	941
precautions established by rules adopted under section 4723.07 of	942
the Revised Code;	943
(19) Failure to practice in accordance with acceptable and	944
prevailing standards of safe nursing care or safe dialysis care;	945

(20) In the case of a registered nurse, engaging in	946
activities that exceed the practice of nursing as a registered	947
nurse;	948
(21) In the case of a licensed practical nurse, engaging in	949
activities that exceed the practice of nursing as a licensed	950
practical nurse;	951
(22) In the case of a dialysis technician, engaging in	952
activities that exceed those permitted under section 4723.72 of	953
the Revised Code;	954
(23) Aiding and abetting a person in that person's practice	955
of nursing without a license or practice as a dialysis technician	956
without a certificate issued under this chapter;	957
(24) In the case of a certified registered nurse anesthetist,	958
clinical nurse specialist, certified nurse-midwife, or certified	959
nurse practitioner, except as provided in division (M) of this	960
section, either of the following:	961
(a) Waiving the payment of all or any part of a deductible or	962
copayment that a patient, pursuant to a health insurance or health	963
care policy, contract, or plan that covers such nursing services,	964
would otherwise be required to pay if the waiver is used as an	965
enticement to a patient or group of patients to receive health	966
care services from that provider;	967
(b) Advertising that the nurse will waive the payment of all	968
or any part of a deductible or copayment that a patient, pursuant	969
to a health insurance or health care policy, contract, or plan	970
that covers such nursing services, would otherwise be required to	971
pay.	972
(25) Failure to comply with the terms and conditions of	973
participation in the chemical dependency monitoring program	974
established under section 4723.35 of the Revised Code;	975

(26) Failure to comply with the terms and conditions required	976
under the practice intervention and improvement program	977
established under section 4723.282 of the Revised Code;	978
(27) In the case of a certified registered nurse anesthetist,	979
clinical nurse specialist, certified nurse-midwife, or certified	980
nurse practitioner:	981
(a) Engaging in activities that exceed those permitted for	982
the nurse's nursing specialty under section 4723.43 of the Revised	983
Code;	984
(b) Failure to meet the quality assurance standards	985
established under section 4723.07 of the Revised Code.	986
(28) In the case of a clinical nurse specialist, certified	987
nurse-midwife, or certified nurse practitioner, failure to	988
maintain a standard care arrangement in accordance with section	989
4723.431 of the Revised Code or to practice in accordance with the	990
standard care arrangement;	991
(29) In the case of a clinical nurse specialist, certified	992
nurse-midwife, or certified nurse practitioner who holds a	993
certificate to prescribe issued under section 4723.48 of the	994
Revised Code, failure to prescribe drugs and therapeutic devices	995
in accordance with section 4723.481 of the Revised Code;	996
(30) Prescribing any drug or device to perform or induce an	997
abortion, or otherwise performing or inducing an abortion;	998
(31) Failure to establish and maintain professional	999
boundaries with a patient, as specified in rules adopted under	1000
section 4723.07 of the Revised Code;	1001
(32) Regardless of whether the contact or verbal behavior is	1002
consensual, engaging with a patient other than the spouse of the	1003
registered nurse, licensed practical nurse, or dialysis technician	1004
in any of the following:	1005

(a) Sexual contact, as defined in section 2907.01 of the Revised Code; 1006
1007

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning. 1008
1009
1010

(33) Assisting suicide as defined in section 3795.01 of the Revised Code. 1011
1012

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect. 1013
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(D) The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code, the board may appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to conduct any hearing the board is authorized to hold under Chapter 119. of the Revised Code. 1024
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In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant or license holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of a quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section. 1029
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(E) If a criminal action is brought against a registered nurse, licensed practical nurse, or dialysis technician for an act or crime described in divisions (B)(3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the action was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed the act, or if the registered nurse, licensed practical nurse, or dialysis technician fails to participate in the adjudication, the board may take action as though the registered nurse, licensed practical nurse, or dialysis technician had been convicted of the act.

If the board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the registered nurse, licensed practical nurse, or dialysis technician may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the original conviction, plea, or judicial finding was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board shall reinstate its action; otherwise, the board shall permanently

rescind its action. 1070

Notwithstanding the provision of division (C)(2) of section 1071
2953.32 of the Revised Code specifying that if records pertaining 1072
to a criminal case are sealed under that section the proceedings 1073
in the case shall be deemed not to have occurred, sealing of the 1074
records of a conviction on which the board has based an action 1075
under this section shall have no effect on the board's action or 1076
any sanction imposed by the board under this section. 1077

The board shall not be required to seal, destroy, redact, or 1078
otherwise modify its records to reflect the court's sealing of 1079
conviction records. 1080

(F) The board may investigate an individual's criminal 1081
background in performing its duties under this section. 1082

(G) During the course of an investigation conducted under 1083
this section, the board may compel any registered nurse, licensed 1084
practical nurse, or dialysis technician or applicant under this 1085
chapter to submit to a mental or physical examination, or both, as 1086
required by the board and at the expense of the individual, if the 1087
board finds reason to believe that the individual under 1088
investigation may have a physical or mental impairment that may 1089
affect the individual's ability to provide safe nursing care. 1090
Failure of any individual to submit to a mental or physical 1091
examination when directed constitutes an admission of the 1092
allegations, unless the failure is due to circumstances beyond the 1093
individual's control, and a default and final order may be entered 1094
without the taking of testimony or presentation of evidence. 1095

If the board finds that an individual is impaired, the board 1096
shall require the individual to submit to care, counseling, or 1097
treatment approved or designated by the board, as a condition for 1098
initial, continued, reinstated, or renewed authority to practice. 1099
The individual shall be afforded an opportunity to demonstrate to 1100

the board that the individual can begin or resume the individual's 1101
occupation in compliance with acceptable and prevailing standards 1102
of care under the provisions of the individual's authority to 1103
practice. 1104

For purposes of this division, any registered nurse, licensed 1105
practical nurse, or dialysis technician or applicant under this 1106
chapter shall be deemed to have given consent to submit to a 1107
mental or physical examination when directed to do so in writing 1108
by the board, and to have waived all objections to the 1109
admissibility of testimony or examination reports that constitute 1110
a privileged communication. 1111

(H) The board shall investigate evidence that appears to show 1112
that any person has violated any provision of this chapter or any 1113
rule of the board. Any person may report to the board any 1114
information the person may have that appears to show a violation 1115
of any provision of this chapter or rule of the board. In the 1116
absence of bad faith, any person who reports such information or 1117
who testifies before the board in any adjudication conducted under 1118
Chapter 119. of the Revised Code shall not be liable for civil 1119
damages as a result of the report or testimony. 1120

(I) All of the following apply under this chapter with 1121
respect to the confidentiality of information: 1122

(1) Information received by the board pursuant to an 1123
investigation is confidential and not subject to discovery in any 1124
civil action, except that the board may disclose information to 1125
law enforcement officers and government entities investigating 1126
either a licensed health care professional, including a registered 1127
nurse, licensed practical nurse, or dialysis technician, or a 1128
person who may have engaged in the unauthorized practice of 1129
nursing. No law enforcement officer or government entity with 1130
knowledge of any information disclosed by the board pursuant to 1131
this division shall divulge the information to any other person or 1132

government entity except for the purpose of a government 1133
investigation, a prosecution, or an adjudication by a court or 1134
~~licensing or registration board or officer to which the person to~~ 1135
~~whom the information relates is a party~~ government entity. 1136

(2) If an investigation requires a review of patient records, 1137
the investigation and proceeding shall be conducted in such a 1138
manner as to protect patient confidentiality. 1139

(3) All adjudications and investigations of the board shall 1140
be considered civil actions for the purposes of section 2305.252 1141
of the Revised Code. 1142

(4) Any board activity that involves continued monitoring of 1143
an individual as part of or following any disciplinary action 1144
taken under this section shall be conducted in a manner that 1145
maintains the individual's confidentiality. Information received 1146
or maintained by the board with respect to the board's monitoring 1147
activities is confidential and not subject to discovery in any 1148
civil action. 1149

(J) Any action taken by the board under this section 1150
resulting in a suspension from practice shall be accompanied by a 1151
written statement of the conditions under which the person may be 1152
reinstated to practice. 1153

(K) When the board refuses to grant a license or certificate 1154
to an applicant, revokes a license or certificate, or refuses to 1155
reinstate a license or certificate, the board may specify that its 1156
action is permanent. An individual subject to permanent action 1157
taken by the board is forever ineligible to hold a license or 1158
certificate of the type that was refused or revoked and the board 1159
shall not accept from the individual an application for 1160
reinstatement of the license or certificate or for a new license 1161
or certificate. 1162

(L) No unilateral surrender of a nursing license, certificate 1163

of authority, or dialysis technician certificate issued under this 1164
chapter shall be effective unless accepted by majority vote of the 1165
board. No application for a nursing license, certificate of 1166
authority, or dialysis technician certificate issued under this 1167
chapter may be withdrawn without a majority vote of the board. The 1168
board's jurisdiction to take disciplinary action under this 1169
section is not removed or limited when an individual has a license 1170
or certificate classified as inactive or fails to renew a license 1171
or certificate. 1172

(M) Sanctions shall not be imposed under division (B)(24) of 1173
this section against any licensee who waives deductibles and 1174
copayments as follows: 1175

(1) In compliance with the health benefit plan that expressly 1176
allows such a practice. Waiver of the deductibles or copayments 1177
shall be made only with the full knowledge and consent of the plan 1178
purchaser, payer, and third-party administrator. Documentation of 1179
the consent shall be made available to the board upon request. 1180

(2) For professional services rendered to any other person 1181
licensed pursuant to this chapter to the extent allowed by this 1182
chapter and the rules of the board. 1183

(N)(1) Any person who enters a prelicensure nursing education 1184
program on or after June 1, 2003, and who subsequently applies 1185
under division (A) of section 4723.09 of the Revised Code for 1186
licensure to practice as a registered nurse or as a licensed 1187
practical nurse and any person who applies under division (B) of 1188
that section for license by endorsement to practice nursing as a 1189
registered nurse or as a licensed practical nurse shall submit a 1190
request to the bureau of criminal identification and investigation 1191
for the bureau to conduct a criminal records check of the 1192
applicant and to send the results to the board, in accordance with 1193
section 4723.09 of the Revised Code. 1194

The board shall refuse to grant a license to practice nursing 1195
as a registered nurse or as a licensed practical nurse under 1196
section 4723.09 of the Revised Code to a person who entered a 1197
prelicensure nursing education program on or after June 1, 2003, 1198
and applied under division (A) of section 4723.09 of the Revised 1199
Code for the license or a person who applied under division (B) of 1200
that section for the license, if the criminal records check 1201
performed in accordance with division (C) of that section 1202
indicates that the person has pleaded guilty to, been convicted 1203
of, or has had a judicial finding of guilt for violating section 1204
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 1205
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 1206
substantially similar law of another state, the United States, or 1207
another country. 1208

(2) Any person who enters a dialysis training program on or 1209
after June 1, 2003, and who subsequently applies for a certificate 1210
to practice as a dialysis technician shall submit a request to the 1211
bureau of criminal identification and investigation for the bureau 1212
to conduct a criminal records check of the applicant and to send 1213
the results to the board, in accordance with section 4723.75 of 1214
the Revised Code. 1215

The board shall refuse to issue a certificate to practice as 1216
a dialysis technician under section 4723.75 of the Revised Code to 1217
a person who entered a dialysis training program on or after June 1218
1, 2003, and whose criminal records check performed in accordance 1219
with division (C) of that section indicates that the person has 1220
pleaded guilty to, been convicted of, or has had a judicial 1221
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 1222
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 1223
2911.11 of the Revised Code or a substantially similar law of 1224
another state, the United States, or another country. 1225

Sec. 4723.487. (A) As used in this section, "drug database" 1226
means the database established and maintained by the state board 1227
of pharmacy pursuant to section 4729.75 of the Revised Code. 1228

(B) The board of nursing shall adopt rules in accordance with 1229
Chapter 119. of the Revised Code that establish standards and 1230
procedures to be followed by an advanced practice nurse with a 1231
certificate to prescribe issued under section 4723.48 of the 1232
Revised Code regarding the review of patient information available 1233
through the drug database. 1234

(C) This section and the rules adopted under it do not apply 1235
if the state board of pharmacy no longer maintains the drug 1236
database. 1237

Sec. 4725.092. (A) As used in this section, "drug database" 1238
means the database established and maintained by the state board 1239
of pharmacy pursuant to section 4729.75 of the Revised Code. 1240

(B) The state board of optometry shall adopt rules in 1241
accordance with Chapter 119. of the Revised Code that establish 1242
standards and procedures to be followed by an optometrist who 1243
holds a therapeutic pharmaceutical agents certificate regarding 1244
the review of patient information available through the drug 1245
database. 1246

(C) This section and the rules adopted under it do not apply 1247
if the state board of pharmacy no longer maintains the drug 1248
database. 1249

Sec. 4729.01. As used in this chapter: 1250

(A) "Pharmacy," except when used in a context that refers to 1251
the practice of pharmacy, means any area, room, rooms, place of 1252
business, department, or portion of any of the foregoing where the 1253
practice of pharmacy is conducted. 1254

(B) "Practice of pharmacy" means providing pharmacist care	1255
requiring specialized knowledge, judgment, and skill derived from	1256
the principles of biological, chemical, behavioral, social,	1257
pharmaceutical, and clinical sciences. As used in this division,	1258
"pharmacist care" includes the following:	1259
(1) Interpreting prescriptions;	1260
(2) Dispensing drugs and drug therapy related devices;	1261
(3) Compounding drugs;	1262
(4) Counseling individuals with regard to their drug therapy,	1263
recommending drug therapy related devices, and assisting in the	1264
selection of drugs and appliances for treatment of common diseases	1265
and injuries and providing instruction in the proper use of the	1266
drugs and appliances;	1267
(5) Performing drug regimen reviews with individuals by	1268
discussing all of the drugs that the individual is taking and	1269
explaining the interactions of the drugs;	1270
(6) Performing drug utilization reviews with licensed health	1271
professionals authorized to prescribe drugs when the pharmacist	1272
determines that an individual with a prescription has a drug	1273
regimen that warrants additional discussion with the prescriber;	1274
(7) Advising an individual and the health care professionals	1275
treating an individual with regard to the individual's drug	1276
therapy;	1277
(8) Acting pursuant to a consult agreement with a physician	1278
authorized under Chapter 4731. of the Revised Code to practice	1279
medicine and surgery or osteopathic medicine and surgery, if an	1280
agreement has been established with the physician;	1281
(9) Engaging in the administration of immunizations to the	1282
extent authorized by section 4729.41 of the Revised Code.	1283
(C) "Compounding" means the preparation, mixing, assembling,	1284

packaging, and labeling of one or more drugs in any of the	1285
following circumstances:	1286
(1) Pursuant to a prescription issued by a licensed health	1287
professional authorized to prescribe drugs;	1288
(2) Pursuant to the modification of a prescription made in	1289
accordance with a consult agreement;	1290
(3) As an incident to research, teaching activities, or	1291
chemical analysis;	1292
(4) In anticipation of orders for drugs pursuant to	1293
prescriptions, based on routine, regularly observed dispensing	1294
patterns;	1295
(5) Pursuant to a request made by a licensed health	1296
professional authorized to prescribe drugs for a drug that is to	1297
be used by the professional for the purpose of direct	1298
administration to patients in the course of the professional's	1299
practice, if all of the following apply:	1300
(a) At the time the request is made, the drug is not	1301
commercially available regardless of the reason that the drug is	1302
not available, including the absence of a manufacturer for the	1303
drug or the lack of a readily available supply of the drug from a	1304
manufacturer.	1305
(b) A limited quantity of the drug is compounded and provided	1306
to the professional.	1307
(c) The drug is compounded and provided to the professional	1308
as an occasional exception to the normal practice of dispensing	1309
drugs pursuant to patient-specific prescriptions.	1310
(D) "Consult agreement" means an agreement to manage an	1311
individual's drug therapy that has been entered into by a	1312
pharmacist and a physician authorized under Chapter 4731. of the	1313
Revised Code to practice medicine and surgery or osteopathic	1314

medicine and surgery.	1315
(E) "Drug" means:	1316
(1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	1317 1318 1319 1320
(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	1321 1322 1323
(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	1324 1325
(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.	1326 1327 1328 1329
(F) "Dangerous drug" means any of the following:	1330
(1) Any drug to which either of the following applies:	1331
(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;	1332 1333 1334 1335 1336 1337 1338
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	1339 1340
(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;	1341 1342 1343
(3) Any drug intended for administration by injection into	1344

the human body other than through a natural orifice of the human 1345
body. 1346

(G) "Federal drug abuse control laws" has the same meaning as 1347
in section 3719.01 of the Revised Code. 1348

(H) "Prescription" means a written, electronic, or oral order 1349
for drugs or combinations or mixtures of drugs to be used by a 1350
particular individual or for treating a particular animal, issued 1351
by a licensed health professional authorized to prescribe drugs. 1352

(I) "Licensed health professional authorized to prescribe 1353
drugs" or "prescriber" means an individual who is authorized by 1354
law to prescribe drugs or dangerous drugs or drug therapy related 1355
devices in the course of the individual's professional practice, 1356
including only the following: 1357

(1) A dentist licensed under Chapter 4715. of the Revised 1358
Code; 1359

(2) A clinical nurse specialist, certified nurse-midwife, or 1360
certified nurse practitioner who holds a certificate to prescribe 1361
issued under section 4723.48 of the Revised Code; 1362

(3) An optometrist licensed under Chapter 4725. of the 1363
Revised Code to practice optometry under a therapeutic 1364
pharmaceutical agents certificate; 1365

(4) A physician authorized under Chapter 4731. of the Revised 1366
Code to practice medicine and surgery, osteopathic medicine and 1367
surgery, or ~~pediatry~~ podiatric medicine and surgery; 1368

(5) A physician assistant who holds a certificate to 1369
prescribe issued under Chapter 4730. of the Revised Code; 1370

(6) A veterinarian licensed under Chapter 4741. of the 1371
Revised Code. 1372

(J) "Sale" and "sell" include delivery, transfer, barter, 1373
exchange, or gift, or offer therefor, and each such transaction 1374

made by any person, whether as principal proprietor, agent, or 1375
employee. 1376

(K) "Wholesale sale" and "sale at wholesale" mean any sale in 1377
which the purpose of the purchaser is to resell the article 1378
purchased or received by the purchaser. 1379

(L) "Retail sale" and "sale at retail" mean any sale other 1380
than a wholesale sale or sale at wholesale. 1381

(M) "Retail seller" means any person that sells any dangerous 1382
drug to consumers without assuming control over and responsibility 1383
for its administration. Mere advice or instructions regarding 1384
administration do not constitute control or establish 1385
responsibility. 1386

(N) "Price information" means the price charged for a 1387
prescription for a particular drug product and, in an easily 1388
understandable manner, all of the following: 1389

(1) The proprietary name of the drug product; 1390

(2) The established (generic) name of the drug product; 1391

(3) The strength of the drug product if the product contains 1392
a single active ingredient or if the drug product contains more 1393
than one active ingredient and a relevant strength can be 1394
associated with the product without indicating each active 1395
ingredient. The established name and quantity of each active 1396
ingredient are required if such a relevant strength cannot be so 1397
associated with a drug product containing more than one 1398
ingredient. 1399

(4) The dosage form; 1400

(5) The price charged for a specific quantity of the drug 1401
product. The stated price shall include all charges to the 1402
consumer, including, but not limited to, the cost of the drug 1403
product, professional fees, handling fees, if any, and a statement 1404

identifying professional services routinely furnished by the 1405
pharmacy. Any mailing fees and delivery fees may be stated 1406
separately without repetition. The information shall not be false 1407
or misleading. 1408

(O) "Wholesale distributor of dangerous drugs" means a person 1409
engaged in the sale of dangerous drugs at wholesale and includes 1410
any agent or employee of such a person authorized by the person to 1411
engage in the sale of dangerous drugs at wholesale. 1412

(P) "Manufacturer of dangerous drugs" means a person, other 1413
than a pharmacist, who manufactures dangerous drugs and who is 1414
engaged in the sale of those dangerous drugs within this state. 1415

(Q) "Terminal distributor of dangerous drugs" means a person 1416
who is engaged in the sale of dangerous drugs at retail, or any 1417
person, other than a wholesale distributor or a pharmacist, who 1418
has possession, custody, or control of dangerous drugs for any 1419
purpose other than for that person's own use and consumption, and 1420
includes pharmacies, hospitals, nursing homes, and laboratories 1421
and all other persons who procure dangerous drugs for sale or 1422
other distribution by or under the supervision of a pharmacist or 1423
licensed health professional authorized to prescribe drugs. 1424

(R) "Promote to the public" means disseminating a 1425
representation to the public in any manner or by any means, other 1426
than by labeling, for the purpose of inducing, or that is likely 1427
to induce, directly or indirectly, the purchase of a dangerous 1428
drug at retail. 1429

(S) "Person" includes any individual, partnership, 1430
association, limited liability company, or corporation, the state, 1431
any political subdivision of the state, and any district, 1432
department, or agency of the state or its political subdivisions. 1433

(T) "Finished dosage form" has the same meaning as in section 1434
3715.01 of the Revised Code. 1435

(U) "Generically equivalent drug" has the same meaning as in section 3715.01 of the Revised Code. 1436
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(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. 1438
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(W) "Food" has the same meaning as in section 3715.01 of the Revised Code. 1442
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(X) "Pain management clinic" has the same meaning as in section 4731.054 of the Revised Code. 1444
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Sec. 4729.071. (A) As used in this section, "license" and "applicant for an initial license" have the same meanings as in section 4776.01 of the Revised Code, except that "license" as used in both of those terms refers to the types of authorizations otherwise issued or conferred under this chapter. 1446
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(B) In addition to any other eligibility requirement set forth in this chapter, each applicant for an initial license shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state board of pharmacy shall not grant a license to an applicant for an initial license unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code and the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to section 4729.08, 4729.09, ~~or 4729.11~~, or 4729.552 of the Revised Code. 1451
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Sec. 4729.162. (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. 1461
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(B) The state board of pharmacy shall adopt rules in accordance with Chapter 119. of the Revised Code that establish 1464
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standards and procedures to be followed by a pharmacist regarding 1466
the review of patient information available through the drug 1467
database. 1468

(C) This section and the rules adopted under it do not apply 1469
if the board no longer maintains the drug database. 1470

Sec. 4729.29. ~~(A)~~ Divisions (A) and (B) of section 4729.01 1471
and section 4729.28 of the Revised Code do not do ~~either~~ any of 1472
the following: 1473

~~(1)~~(A) Apply to a licensed health professional authorized to 1474
prescribe drugs ~~or prevent~~ who is acting within the prescriber's 1475
scope of professional practice; 1476

(B) Prevent a prescriber from personally furnishing the 1477
prescriber's patients with drugs, within the prescriber's scope of 1478
professional practice, that seem proper to the prescriber-, as 1479
long as the drugs are furnished in accordance with section 1480
4729.291 of the Revised Code; 1481

~~(2)~~(C) Apply to the sale of oxygen, peritoneal dialysis 1482
solutions, or the sale of drugs that are not dangerous drugs by a 1483
retail dealer, in original packages when labeled as required by 1484
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 1485
21 U.S.C.A. 301, as amended. 1486

~~(B) When a prescriber personally furnishes drugs to a patient~~ 1487
~~pursuant to division (A)(1) of this section, the prescriber shall~~ 1488
~~ensure that the drugs are labeled and packaged in accordance with~~ 1489
~~state and federal drug laws and any rules and regulations adopted~~ 1490
~~pursuant to those laws. Records of purchase and disposition of all~~ 1491
~~drugs personally furnished to patients shall be maintained by the~~ 1492
~~prescriber in accordance with state and federal drug statutes and~~ 1493
~~any rules adopted pursuant to those statutes.~~ 1494

~~When personally furnishing to a patient RU 486~~ 1495

~~(mifepristone), a prescriber is subject to section 2919.123 of the Revised Code. A prescription for RU-486 (mifepristone) shall be in writing and in accordance with section 2919.123 of the Revised Code.~~

Sec. 4729.291. (A) When a licensed health professional authorized to prescribe drugs personally furnishes drugs to a patient pursuant to division (B) of section 4729.29 of the Revised Code, the prescriber shall ensure that the drugs are labeled and packaged in accordance with state and federal drug laws and any rules and regulations adopted pursuant to those laws. Records of purchase and disposition of all drugs personally furnished to patients shall be maintained by the prescriber in accordance with state and federal drug statutes and any rules adopted pursuant to those statutes.

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

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

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

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

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

<u>(a) A veterinarian;</u>	1526
<u>(b) The amount of any methadone personally furnished to a patient by a prescriber for the purpose of treating drug addiction.</u>	1527 1528 1529
<u>(3) The state board of pharmacy may impose a fine of not more than five thousand dollars on a prescriber who fails to comply with the limits established under division (C)(1) of this section. A separate fine may be imposed for each instance of failing to comply with the limits. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.</u>	1530 1531 1532 1533 1534 1535 1536
Sec. 4729.51. (A) No person other than a registered wholesale distributor of dangerous drugs shall possess for sale, sell, distribute, or deliver, at wholesale, dangerous drugs, except as follows:	1537 1538 1539 1540
(1) A pharmacist who is a licensed terminal distributor of dangerous drugs or who is employed by a licensed terminal distributor of dangerous drugs may make occasional sales of dangerous drugs at wholesale;	1541 1542 1543 1544
(2) A licensed terminal distributor of dangerous drugs having more than one establishment or place may transfer or deliver dangerous drugs from one establishment or place for which a license has been issued to the terminal distributor to another establishment or place for which a license has been issued to the terminal distributor if the license issued for each establishment or place is in effect at the time of the transfer or delivery.	1545 1546 1547 1548 1549 1550 1551
(B)(1) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs to any person other than the following:	1552 1553 1554
(a) A <u>Except as provided in division (B)(3) of this section,</u>	1555

a licensed health professional authorized to prescribe drugs;	1556
(b) An optometrist licensed under Chapter 4725. of the Revised Code who holds a topical ocular pharmaceutical agents certificate;	1557 1558 1559
(c) A registered wholesale distributor of dangerous drugs;	1560
(d) A manufacturer of dangerous drugs;	1561
(e) <u>A Subject to division (B)(3) of this section,</u> a licensed terminal distributor of dangerous drugs, subject to division (B)(2) of this section;	1562 1563 1564
(f) Carriers or warehousemen for the purpose of carriage or storage;	1565 1566
(g) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state;	1567 1568
(h) An individual who holds a current license, certificate, or registration issued under Title 47 of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession;	1569 1570 1571 1572 1573 1574 1575 1576 1577
(i) An individual who holds a valid certificate issued by a nationally recognized S.C.U.B.A. diving certifying organization approved by the <u>state board of pharmacy</u> board in rule, but only with respect to medical oxygen that will be used for the purpose of emergency care or treatment at the scene of a diving emergency;	1578 1579 1580 1581 1582
(j) <u>A Except as provided in division (B)(2) of this section,</u> a business entity that is a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability	1583 1584 1585

company formed under Chapter 1705. of the Revised Code, or a 1586
professional association formed under Chapter 1785. of the Revised 1587
Code if the entity has a sole shareholder who is a licensed health 1588
professional authorized to prescribe drugs and is authorized to 1589
provide the professional services being offered by the entity; 1590

(k) A Except as provided in division (B)(2) of this section, 1591
a business entity that is a corporation formed under division (B) 1592
of section 1701.03 of the Revised Code, a limited liability 1593
company formed under Chapter 1705. of the Revised Code, a 1594
partnership or a limited liability partnership formed under 1595
Chapter 1775. of the Revised Code, or a professional association 1596
formed under Chapter 1785. of the Revised Code, if, to be a 1597
shareholder, member, or partner, an individual is required to be 1598
licensed, certified, or otherwise legally authorized under Title 1599
XLVII of the Revised Code to perform the professional service 1600
provided by the entity and each such individual is a licensed 1601
health professional authorized to prescribe drugs. 1602

(2) No registered wholesaler of dangerous drugs shall possess 1603
for sale, or sell, at wholesale, dangerous drugs to any of the 1604
following: 1605

(a) A prescriber who is employed by a pain management clinic 1606
that is not licensed as a terminal distributor of dangerous drugs 1607
with a pain management clinic classification issued under section 1608
4729.552 of the Revised Code; 1609

(b) A business entity described in division (B)(1)(j) of this 1610
section that is, or is operating, a pain management clinic without 1611
a license as a terminal distributor of dangerous drugs with a pain 1612
management clinic classification issued under section 4729.552 of 1613
the Revised Code; 1614

(c) A business entity described in division (B)(1)(k) of this 1615
section that is, or is operating, a pain management clinic without 1616

a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code. 1617
1618
1619

(3) No registered wholesale distributor of dangerous drugs shall possess dangerous drugs for sale at wholesale, or sell such drugs at wholesale, to a licensed terminal distributor of dangerous drugs, except ~~to~~ as follows: 1620
1621
1622
1623

(a) ~~A~~ In the case of a terminal distributor ~~who has~~ with a category I license, only dangerous drugs described in category I, as defined in division (A)(1) of section 4729.54 of the Revised Code; 1624
1625
1626
1627

(b) ~~A~~ In the case of a terminal distributor ~~who has~~ with a category II license, only dangerous drugs described in category I and category II, as defined in divisions (A)(1) and (2) of section 4729.54 of the Revised Code; 1628
1629
1630
1631

(c) ~~A~~ In the case of a terminal distributor ~~who has~~ with a category III license, dangerous drugs described in category I, category II, and category III, as defined in divisions (A)(1), (2), and (3) of section 4729.54 of the Revised Code; 1632
1633
1634
1635

(d) ~~A~~ In the case of a terminal distributor ~~who has~~ with a limited category I, II, or III license, only the dangerous drugs specified in the certificate furnished by the terminal distributor in accordance with section 4729.60 of the Revised Code. 1636
1637
1638
1639

(C)(1) Except as provided in division (C)(4) of this section, no person shall sell, at retail, dangerous drugs. 1640
1641

(2) Except as provided in division (C)(4) of this section, no person shall possess for sale, at retail, dangerous drugs. 1642
1643

(3) Except as provided in division (C)(4) of this section, no person shall possess dangerous drugs. 1644
1645

(4) Divisions (C)(1), (2), and (3) of this section do not 1646

apply to a registered wholesale distributor of dangerous drugs, a 1647
licensed terminal distributor of dangerous drugs, or a person who 1648
possesses, or possesses for sale or sells, at retail, a dangerous 1649
drug in accordance with Chapters 3719., 4715., 4723., 4725., 1650
4729., 4730., 4731., and 4741. of the Revised Code. 1651

Divisions (C)(1), (2), and (3) of this section do not apply 1652
to an individual who holds a current license, certificate, or 1653
registration issued under Title XLVII of the Revised Code and has 1654
been certified to conduct diabetes education by a national 1655
certifying body specified in rules adopted by the state board of 1656
pharmacy under section 4729.68 of the Revised Code, but only to 1657
the extent that the individual possesses insulin or personally 1658
supplies insulin solely for the purpose of diabetes education and 1659
only if diabetes education is within the individual's scope of 1660
practice under statutes and rules regulating the individual's 1661
profession. 1662

Divisions (C)(1), (2), and (3) of this section do not apply 1663
to an individual who holds a valid certificate issued by a 1664
nationally recognized S.C.U.B.A. diving certifying organization 1665
approved by the state board of pharmacy ~~board~~ in rule, but only to 1666
the extent that the individual possesses medical oxygen or 1667
personally supplies medical oxygen for the purpose of emergency 1668
care or treatment at the scene of a diving emergency. 1669

(D) No licensed terminal distributor of dangerous drugs shall 1670
purchase for the purpose of resale dangerous drugs from any person 1671
other than a registered wholesale distributor of dangerous drugs, 1672
except as follows: 1673

(1) A licensed terminal distributor of dangerous drugs may 1674
make occasional purchases of dangerous drugs for resale from a 1675
pharmacist who is a licensed terminal distributor of dangerous 1676
drugs or who is employed by a licensed terminal distributor of 1677
dangerous drugs; 1678

(2) A licensed terminal distributor of dangerous drugs having 1679
more than one establishment or place may transfer or receive 1680
dangerous drugs from one establishment or place for which a 1681
license has been issued to the terminal distributor to another 1682
establishment or place for which a license has been issued to the 1683
terminal distributor if the license issued for each establishment 1684
or place is in effect at the time of the transfer or receipt. 1685

(E) No licensed terminal distributor of dangerous drugs shall 1686
engage in the sale or other distribution of dangerous drugs at 1687
retail or maintain possession, custody, or control of dangerous 1688
drugs for any purpose other than the distributor's personal use or 1689
consumption, at any establishment or place other than that or 1690
those described in the license issued by the state board of 1691
pharmacy to such terminal distributor. 1692

(F) Nothing in this section shall be construed to interfere 1693
with the performance of official duties by any law enforcement 1694
official authorized by municipal, county, state, or federal law to 1695
collect samples of any drug, regardless of its nature or in whose 1696
possession it may be. 1697

Sec. 4729.54. (A) As used in this section and section 1698
4729.541 of the Revised Code: 1699

(1) "Category I" means single-dose injections of intravenous 1700
fluids, including saline, Ringer's lactate, five per cent dextrose 1701
and distilled water, and other intravenous fluids or parenteral 1702
solutions included in this category by rule of the state board of 1703
pharmacy, that have a volume of one hundred milliliters or more 1704
and that contain no added substances, or single-dose injections of 1705
epinephrine to be administered pursuant to sections 4765.38 and 1706
4765.39 of the Revised Code. 1707

(2) "Category II" means any dangerous drug that is not 1708
included in category I or III. 1709

(3) "Category III" means any controlled substance that is contained in schedule I, II, III, IV, or V. 1710
1711

(4) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code. 1712
1713

(5) "Person" includes an emergency medical service organization. 1714
1715

(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. 1716
1717
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1719

(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. 1720
1721
1722
1723
1724

(2) An application shall contain all the following that apply in the applicant's case: 1725
1726

~~(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; 1727
1728
1729

~~(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; 1730
1731
1732
1733

~~(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; 1734
1735
1736
1737
1738
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~~(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 consumption;

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

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

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

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

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

(3) A unit listed in an application for licensure pursuant to division (C)(1) of this section may obtain the dangerous drugs it

is authorized to possess from its emergency medical service 1771
organization or, on a replacement basis, from a hospital pharmacy. 1772
If units will obtain dangerous drugs from a hospital pharmacy, the 1773
organization shall file, and maintain in current form, the 1774
following items with the pharmacist who is responsible for the 1775
hospital's terminal distributor of dangerous drugs license: 1776

(a) A copy of its standing orders or protocol; 1777

(b) A list of the personnel employed or used by the 1778
organization to provide emergency medical services in accordance 1779
with Chapter 4765. of the Revised Code, who are authorized to 1780
possess the drugs, which list also shall indicate the personnel 1781
who are authorized to administer the drugs. 1782

(D) Each emergency medical service organization that applies 1783
for a terminal distributor of dangerous drugs license shall submit 1784
with its application the following: 1785

(1) A notarized copy of its standing orders or protocol, 1786
which orders or protocol shall be signed by a physician and 1787
specify the dangerous drugs that its units may carry, expressed in 1788
standard dose units; 1789

(2) A list of the personnel employed or used by the 1790
organization to provide emergency medical services in accordance 1791
with Chapter 4765. of the Revised Code. 1792

An emergency medical service organization that is licensed as 1793
a terminal distributor shall notify the board immediately of any 1794
changes in its standing orders or protocol. 1795

(E) There shall be six categories of terminal distributor of 1796
dangerous drugs licenses, which categories shall be as follows: 1797

(1) Category I license. A person who obtains this license may 1798
possess, have custody or control of, and distribute only the 1799
dangerous drugs described in category I. 1800

(2) Limited category I license. A person who obtains this 1801
license may possess, have custody or control of, and distribute 1802
only the dangerous drugs described in category I that were listed 1803
in the application for licensure. 1804

(3) Category II license. A person who obtains this license 1805
may possess, have custody or control of, and distribute only the 1806
dangerous drugs described in category I and category II. 1807

(4) Limited category II license. A person who obtains this 1808
license may possess, have custody or control of, and distribute 1809
only the dangerous drugs described in category I or category II 1810
that were listed in the application for licensure. 1811

(5) Category III license, which may include a pain management 1812
clinic classification issued under section 4729.552 of the Revised 1813
Code. A person who obtains this license may possess, have custody 1814
or control of, and distribute the dangerous drugs described in 1815
category I, category II, and category III. If the license includes 1816
a pain management clinic classification, the person may operate a 1817
pain management clinic. 1818

(6) Limited category III license. A person who obtains this 1819
license may possess, have custody or control of, and distribute 1820
only the dangerous drugs described in category I, category II, or 1821
category III that were listed in the application for licensure. 1822

(F) Except for an application made on behalf of an animal 1823
shelter, if an applicant for licensure as a limited category I, 1824
II, or III terminal distributor of dangerous drugs intends to 1825
administer dangerous drugs to a person or animal, the applicant 1826
shall submit, with the application, a notarized copy of its 1827
protocol or standing orders, which protocol or orders shall be 1828
signed by a licensed health professional authorized to prescribe 1829
drugs, specify the dangerous drugs to be administered, and list 1830
personnel who are authorized to administer the dangerous drugs in 1831

accordance with federal law or the law of this state. An 1832
application made on behalf of an animal shelter shall include a 1833
notarized list of the dangerous drugs to be administered to 1834
animals and the personnel who are authorized to administer the 1835
drugs to animals in accordance with section 4729.532 of the 1836
Revised Code. After obtaining a terminal distributor license, a 1837
licensee shall notify the board immediately of any changes in its 1838
protocol or standing orders, or in such personnel. 1839

(G)(1) Except as provided in division (G)(2) of this section, 1840
each applicant for licensure as a terminal distributor of 1841
dangerous drugs shall submit, with the application, a license fee 1842
determined as follows: 1843

(a) For a category I or limited category I license, 1844
forty-five dollars; 1845

(b) For a category II or limited category II license, one 1846
hundred twelve dollars and fifty cents; 1847

(c) For a category III license, including a license with a 1848
pain management clinic classification issued under section 1849
4729.552 of the Revised Code, or a limited category III license, 1850
one hundred fifty dollars. 1851

(2) For a professional association, corporation, partnership, 1852
or limited liability company organized for the purpose of 1853
practicing veterinary medicine, the fee shall be forty dollars. 1854

(3) Fees assessed under divisions (G)(1) and (2) of this 1855
section shall not be returned if the applicant fails to qualify 1856
for registration. 1857

(H)(1) The board shall issue a terminal distributor of 1858
dangerous drugs license to each person who submits an application 1859
for such licensure in accordance with this section, pays the 1860
required license fee, is determined by the board to meet the 1861
requirements set forth in section 4729.55 of the Revised Code, and 1862

satisfies any other applicable requirements of this section. 1863

(2) The license of a person other than an emergency medical 1864
service organization shall describe the one establishment or place 1865
at which the licensee may engage in the sale or other distribution 1866
of dangerous drugs at retail and maintain possession, custody, or 1867
control of dangerous drugs for purposes other than the licensee's 1868
own use or consumption. The one establishment or place shall be 1869
that which is described in the application for licensure. 1870

No such license shall authorize or permit the terminal 1871
distributor of dangerous drugs named in it to engage in the sale 1872
or other distribution of dangerous drugs at retail or to maintain 1873
possession, custody, or control of dangerous drugs for any purpose 1874
other than the distributor's own use or consumption, at any 1875
establishment or place other than that described in the license, 1876
except that an agent or employee of an animal shelter may possess 1877
and use dangerous drugs in the course of business as provided in 1878
division (D) of section 4729.532 of the Revised Code. 1879

(3) The license of an emergency medical service organization 1880
shall cover and describe all the units of the organization listed 1881
in its application for licensure. 1882

(4) The license of every terminal distributor of dangerous 1883
drugs shall indicate, on its face, the category of licensure. If 1884
the license is a limited category I, II, or III license, it shall 1885
specify, and shall authorize the licensee to possess, have custody 1886
or control of, and distribute only, the dangerous drugs that were 1887
listed in the application for licensure. 1888

(I) All licenses issued pursuant to this section shall be 1889
effective for a period of twelve months from the first day of 1890
January of each year. A license shall be renewed by the board for 1891
a like period, annually, according to the provisions of this 1892
section, and the standard renewal procedure of Chapter 4745. of 1893

the Revised Code. A person who desires to renew a license shall 1894
submit an application for renewal and pay the required fee on or 1895
before the thirty-first day of December each year. The fee 1896
required for the renewal of a license shall be the same as the fee 1897
paid for the license being renewed, and shall accompany the 1898
application for renewal. 1899

A license that has not been renewed during December in any 1900
year and by the first day of February of the following year may be 1901
reinstated only upon payment of the required renewal fee and a 1902
penalty fee of fifty-five dollars. 1903

(J)(1) No emergency medical service organization that is 1904
licensed as a terminal distributor of dangerous drugs shall fail 1905
to comply with division (C)(2) or (3) of this section. 1906

(2) No emergency medical service organization that is 1907
licensed as a terminal distributor of dangerous drugs shall fail 1908
to comply with division (D) of this section. 1909

(3) No licensed terminal distributor of dangerous drugs shall 1910
possess, have custody or control of, or distribute dangerous drugs 1911
that the terminal distributor is not entitled to possess, have 1912
custody or control of, or distribute by virtue of its category of 1913
licensure. 1914

(4) No licensee that is required by division (F) of this 1915
section to notify the board of changes in its protocol or standing 1916
orders, or in personnel, shall fail to comply with that division. 1917

Sec. 4729.541. ~~A person~~ (A) Except as provided in division 1918
(B) of this section, a business entity described in division 1919
(B)(1)(j) or (k) of section 4729.51 of the Revised Code may 1920
possess, have custody or control of, and distribute the dangerous 1921
drugs in category I, category II, and category III of section 1922
4729.54 of the Revised Code without holding a terminal distributor 1923

of dangerous drugs license issued under that section. 1924

(B) If a business entity described in division (B)(1)(j) or 1925
(k) of section 4729.51 of the Revised Code is a pain management 1926
clinic or is operating a pain management clinic, the entity shall 1927
hold a license as a terminal distributor of dangerous drugs with a 1928
pain management clinic classification issued under section 1929
4729.552 of the Revised Code. 1930

Sec. 4729.55. No license shall be issued to an applicant for 1931
licensure as a terminal distributor of dangerous drugs unless the 1932
applicant has furnished satisfactory proof to the state board of 1933
pharmacy that: 1934

(A) The applicant is equipped as to land, buildings, and 1935
equipment to properly carry on the business of a terminal 1936
distributor of dangerous drugs within the category of licensure 1937
approved by the board. 1938

(B) A pharmacist, licensed health professional authorized to 1939
prescribe drugs, animal shelter licensed with the state board of 1940
pharmacy under section 4729.531 of the Revised Code, or a 1941
laboratory as defined in section 3719.01 of the Revised Code will 1942
maintain supervision and control over the possession and custody 1943
of dangerous drugs that may be acquired by or on behalf of the 1944
applicant. 1945

(C) Adequate safeguards are assured to prevent the sale or 1946
other distribution of dangerous drugs by any person other than a 1947
pharmacist or licensed health professional authorized to prescribe 1948
drugs. 1949

(D) Adequate safeguards are assured that the applicant will 1950
carry on the business of a terminal distributor of dangerous drugs 1951
in a manner that allows pharmacists and pharmacy interns employed 1952
by the terminal distributor to practice pharmacy in a safe and 1953

effective manner. 1954

(E) If the applicant, or any agent or employee of the 1955
applicant, has been found guilty of violating section 4729.51 of 1956
the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 1957
Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control 1958
laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, 1959
or any rule of the board, adequate safeguards are assured to 1960
prevent the recurrence of the violation. 1961

(F) In the case of an applicant who is a food processor or 1962
retail seller of food, the applicant will maintain supervision and 1963
control over the possession and custody of nitrous oxide. 1964

(G) In the case of an applicant who is a retail seller of 1965
oxygen in original packages labeled as required by the "Federal 1966
Food, Drug, and Cosmetic Act," the applicant will maintain 1967
supervision and control over the possession, custody, and retail 1968
sale of the oxygen. 1969

(H) If the application is made on behalf of an animal 1970
shelter, at least one of the agents or employees of the animal 1971
shelter is certified in compliance with section 4729.532 of the 1972
Revised Code. 1973

(I) In the case of an applicant who is a retail seller of 1974
peritoneal dialysis solutions in original packages labeled as 1975
required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1976
1040 (1938), 21 U.S.C.A. 301, the applicant will maintain 1977
supervision and control over the possession, custody, and retail 1978
sale of the peritoneal dialysis solutions. 1979

(J) In the case of an applicant who is a pain management 1980
clinic, the applicant meets the requirements to receive a license 1981
with a pain management clinic classification issued under section 1982
4729.552 of the Revised Code. 1983

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

If the board determines that an applicant meets all of the requirements, the board shall issue to the applicant a license as a category III terminal distributor of dangerous drugs and specify on the license that the terminal distributor is classified as a pain management clinic.

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

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

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

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

(4) Require all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the

Revised Code and ensure that no person is employed who has 2014
previously been convicted of, or pleaded guilty to, any felony in 2015
this state, another state, or the United States; 2016

(5) Maintain a list of each person with ownership of the 2017
facility and notify the state board of pharmacy of any change to 2018
that list. 2019

(C) No person shall operate a facility that under this 2020
chapter is subject to licensure as a category III terminal 2021
distributor of dangerous drugs with a pain management clinic 2022
classification without obtaining and maintaining the license with 2023
the classification. 2024

No person who holds a category III license with a pain 2025
management clinic classification shall fail to remain in 2026
compliance with the requirements of division (A) of this section 2027
and any other applicable requirements under this chapter or 2028
Chapter 3719. of the Revised Code. 2029

(D) The board may impose a fine of not more than five 2030
thousand dollars on a terminal distributor of dangerous drugs 2031
license holder who violates division (C) of this section. A 2032
separate fine may be imposed for each day the violation continues. 2033
In imposing the fine, the board's actions shall be taken in 2034
accordance with Chapter 119. of the Revised Code. 2035

Sec. 4729.571. If the state board of pharmacy determines that 2036
there is clear and convincing evidence that the method used by a 2037
terminal distributor of dangerous drugs to distribute controlled 2038
substances presents a danger of immediate and serious harm to 2039
others, the board may suspend the terminal distributor's license 2040
without a hearing. The board shall follow the procedure for 2041
suspension without a prior hearing in section 119.07 of the 2042
Revised Code. The suspension shall remain in effect, unless 2043
removed by the board, until the board's final adjudication order 2044

becomes effective, except that if the board does not issue its 2045
final adjudication order within ninety days after the hearing, the 2046
suspension shall be void on the ninety-first day after the 2047
suspension. 2048

If the terminal distributor holds a license with a pain 2049
management clinic classification issued under section 4729.552 of 2050
the Revised Code and the person holding the license also holds a 2051
certificate issued under Chapter 4731. of the Revised Code to 2052
practice medicine and surgery or osteopathic medicine and surgery, 2053
prior to suspending the license without a hearing, the board shall 2054
consult with the secretary of the state medical board or, if the 2055
secretary is unavailable, another physician member of the board. 2056

Sec. 4729.69. (A) The state board of pharmacy, in 2057
collaboration with the director of alcohol and drug addiction 2058
services and attorney general, shall establish and administer a 2059
drug take-back program under which drugs are collected from the 2060
community for the purpose of destruction or disposal of the drugs. 2061

(B) The program shall be established and administered in such 2062
a manner that it does both of the following: 2063

(1) Complies with any state or federal laws regarding the 2064
collection, destruction, or disposal of drugs; 2065

(2) Maintains the confidentiality of individuals who submit 2066
or otherwise provide drugs under the program. 2067

(C) In consultation with the director of alcohol and drug 2068
addiction services and attorney general, the board shall adopt 2069
rules governing the program. The rules shall be adopted in 2070
accordance with Chapter 119. of the Revised Code. In adopting the 2071
rules, the board shall specify all of the following: 2072

(1) The entities that may participate; 2073

(2) Guidelines and responsibilities for accepting drugs by 2074

<u>participating entities;</u>	2075
<u>(3) Drugs that may be collected;</u>	2076
<u>(4) Record-keeping requirements;</u>	2077
<u>(5) Proper methods to destroy unused drugs;</u>	2078
<u>(6) Privacy protocols and security standards;</u>	2079
<u>(7) Drug transportation procedures;</u>	2080
<u>(8) The schedule, duration, and frequency of the collections</u>	2081
<u>of drugs, except that the first collection shall occur not later</u>	2082
<u>than one year after the effective date of this section;</u>	2083
<u>(9) Any other standards and procedures the board considers</u>	2084
<u>necessary for purposes of governing the program.</u>	2085
<u>(D) In accordance with state and federal law, the board may</u>	2086
<u>adopt rules to allow an entity participating in the program to</u>	2087
<u>return any unused drugs to the pharmacy that originally dispensed</u>	2088
<u>the drug. The rules shall include procedures to be followed to</u>	2089
<u>maintain the confidentiality of the person for whom the drug was</u>	2090
<u>dispensed.</u>	2091
<u>(E) Rules adopted under this section may not do any of the</u>	2092
<u>following:</u>	2093
<u>(1) Require any entity to establish, fund, or operate a drug</u>	2094
<u>take-back program;</u>	2095
<u>(2) Establish any new licensing requirement or fee to</u>	2096
<u>participate in the program;</u>	2097
<u>(3) Require any entity to compile data on drugs collected.</u>	2098
<u>(F) The board may compile data on the amount and type of</u>	2099
<u>drugs collected under the program. For purposes of this division,</u>	2100
<u>the board may cooperate with a public or private entity in</u>	2101
<u>obtaining assistance in the compilation of data. An entity</u>	2102
<u>providing the assistance shall not be reimbursed under the program</u>	2103

<u>for any costs incurred in providing the assistance.</u>	2104
<u>(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:</u>	2105
<u>(1) Total weight of drugs collected, both with and without packaging;</u>	2106
<u>(2) The weight of controlled substances;</u>	2107
<u>(3) The amount of all of the following as a per cent of total drugs collected:</u>	2108
<u>(a) Controlled substances;</u>	2109
<u>(b) Brand name drugs;</u>	2110
<u>(c) Generic drugs;</u>	2111
<u>(d) Prescription drugs;</u>	2112
<u>(e) Non-prescription drugs.</u>	2113
<u>(4) The amount of vitamins, herbal supplements, and personal care products collected;</u>	2114
<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>	2115
<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>	2116
<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>	2117
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Sec. 4729.75. The state board of pharmacy may establish and maintain a drug database. The board shall use the drug database to monitor the misuse and diversion of controlled substances, as defined in section 3719.01 of the Revised Code, and other dangerous drugs the board includes in the database pursuant to rules adopted under section ~~4729.83~~ 4729.84 of the Revised Code. In establishing and maintaining the database, the board shall electronically collect information pursuant to sections 4729.77 and ~~4729.78~~ 4729.79 of the Revised Code and shall disseminate information as authorized or required by sections ~~4729.79~~ 4729.80 and ~~4729.80~~ 4729.81 of the Revised Code. The board's collection and dissemination of information shall be conducted in accordance with rules adopted under section ~~4729.83~~ 4729.84 of the Revised Code.

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

- (1) Terminal distributor identification;
- (2) Patient identification;
- (3) Prescriber identification;
- (4) Date prescription was issued by prescriber;
- (5) Date ~~prescription~~ drug was dispensed;
- (6) Indication of whether ~~prescription~~ the drug dispensed is new or a refill;
- (7) Name, strength, and national drug code of the drug

dispensed;	2162
(8) Quantity of drug dispensed;	2163
(9) Number of days' supply of drug dispensed;	2164
(10) Serial or prescription number assigned by the terminal distributor;	2165 2166
(11) Source of payment for the prescription <u>drug dispensed</u> .	2167
(B)(<u>1</u>) The information shall be transmitted as specified by the board in rules adopted under section 4729.83 <u>4729.84</u> of the Revised Code.	2168 2169 2170
(1) (<u>2</u>) The information shall be submitted electronically in the format specified by the board, except that the board may grant a waiver allowing the distributor to submit the information in another format.	2171 2172 2173 2174
(2) (<u>3</u>) 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:	2175 2176 2177
(a) The distributor suffers a mechanical or electronic failure, or cannot meet the deadline for other reasons beyond the distributor's control.	2178 2179 2180
(b) The board is unable to receive electronic submissions.	2181
(C) This section does not apply to a prescriber personally furnishing or administering dangerous drugs to the prescriber's patient.	2182 2183 2184
Sec. 4729.78. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, each wholesale distributor of dangerous drugs that delivers drugs <u>in this state</u> to prescribers in this state <u>or terminal distributors of dangerous drugs</u> shall submit to the board the following purchase information:	2185 2186 2187 2188 2189 2190

(1) Purchaser identification;	2191
(2) Identification of the drug sold;	2192
(3) Quantity of the drug sold;	2193
(4) Date of sale;	2194
(5) The wholesale distributor's license number issued by the board.	2195 2196
(B)(1) The information shall be transmitted as specified by the board in rules adopted under section 4729.83 <u>4729.84</u> of the Revised Code.	2197 2198 2199
(1) (2) The information shall be submitted electronically in the format specified by the board, except that the board may grant a waiver allowing the distributor to submit the information in another format.	2200 2201 2202 2203
(2) (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:	2204 2205 2206
(a) The distributor suffers a mechanical or electronic failure, or cannot meet the deadline for other reasons beyond the distributor's control.	2207 2208 2209
(b) The board is unable to receive electronic submissions.	2210
<u>Sec. 4729.79. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, each licensed health professional authorized to prescribe drugs, other than a veterinarian, who personally furnishes a controlled substance or other dangerous drug the board includes in the database pursuant to rules adopted under section 4729.84 of the Revised Code to a patient in this state shall submit to the board the following information:</u>	2211 2212 2213 2214 2215 2216 2217 2218
<u>(1) Prescriber identification;</u>	2219

<u>(2) Patient identification;</u>	2220
<u>(3) Date drug was furnished by the prescriber;</u>	2221
<u>(4) Indication of whether the drug furnished is new or a refill;</u>	2222 2223
<u>(5) Name, strength, and national drug code of drug furnished;</u>	2224
<u>(6) Quantity of drug furnished;</u>	2225
<u>(7) Number of days' supply of drug furnished;</u>	2226
<u>(8) Source of payment for the drug furnished.</u>	2227
<u>(B)(1) The information shall be transmitted as specified by the board in rules adopted under section 4729.84 of the Revised Code.</u>	2228 2229 2230
<u>(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.</u>	2231 2232 2233 2234
<u>(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:</u>	2235 2236 2237
<u>(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.</u>	2238 2239 2240
<u>(b) The board is unable to receive electronic submissions.</u>	2241
<u>(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.</u>	2242 2243 2244
Sec. 4729.79 <u>4729.80</u>. (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 <u>is authorized or</u>	2245 2246 2247

required to provide information from the database in accordance 2248
with the following: 2249

(1) On receipt of a request from a designated representative 2250
of a government entity responsible for the licensure, regulation, 2251
or discipline of ~~licensed~~ health care professionals ~~authorized~~ 2252
with authority to prescribe, administer, or dispense drugs, the 2253
board may provide to the representative information from the 2254
database relating to the professional who is the subject of an 2255
active investigation being conducted by the government entity. 2256

(2) On receipt of a request from a federal officer, or a 2257
state or local officer of this or any other state, whose duties 2258
include enforcing laws relating to drugs, the board ~~may~~ shall 2259
provide to the officer information from the database relating to 2260
the person who is the subject of an active investigation of a drug 2261
abuse offense, as defined in section 2925.01 of the Revised Code, 2262
being conducted by the officer's employing government entity. 2263

(3) Pursuant to a subpoena issued by a grand jury, the board 2264
~~may~~ shall provide to the grand jury information from the database 2265
relating to the person who is the subject of an investigation 2266
being conducted by the grand jury. 2267

(4) Pursuant to a subpoena, search warrant, or court order in 2268
connection with the investigation or prosecution of a possible or 2269
alleged criminal offense, the board shall provide information from 2270
the database as necessary to comply with the subpoena, search 2271
warrant, or court order. 2272

(5) On receipt of a request from a ~~pharmacist~~ or prescriber 2273
or the prescriber's agent registered with the board, the board may 2274
provide to the ~~requester~~ prescriber information from the database 2275
relating to a current patient of the ~~requester~~ prescriber, if the 2276
~~requester~~ prescriber certifies in a form specified by the board 2277
that it is for the purpose of providing medical ~~or pharmaceutical~~ 2278

treatment to the patient who is the subject of the request. 2279

+5)(6) On receipt of a request from a pharmacist, the board 2280
may provide to the pharmacist information from the database 2281
relating to a current patient of the pharmacist, if the pharmacist 2282
certifies in a form specified by the board that it is for the 2283
purpose of the pharmacist's practice of pharmacy involving the 2284
patient who is the subject of the request. 2285

(7) On receipt of a request from an individual seeking the 2286
individual's own database information in accordance with the 2287
procedure established in rules adopted under section ~~4729.83~~ 2288
4729.84 of the Revised Code, the board may provide to the 2289
individual the individual's own database information. 2290

(8) On receipt of a request from the medical director of a 2291
managed care organization that has entered into a data security 2292
agreement with the board required by section 5111.1710 of the 2293
Revised Code, the board may provide to the medical director 2294
information from the database relating to a medicaid recipient 2295
enrolled in the managed care organization. 2296

(9) On receipt of a request from the director of job and 2297
family services, the board may provide to the director information 2298
from the database relating to a recipient of a program 2299
administered by the department of job and family services. 2300

(10) On receipt of a request from the administrator of 2301
workers' compensation, the board may provide to the administrator 2302
information from the database relating to a claimant under Chapter 2303
4121., 4123., 4127., or 4131. of the Revised Code. 2304

(11) On receipt of a request from a requestor described in 2305
division (A)(1), (2), (5), or (6) of this section who is from or 2306
participating with another state's prescription monitoring 2307
program, the board may provide to the requestor information from 2308
the database, but only if there is a written agreement under which 2309

the information is to be used and disseminated according to the 2310
laws of this state. 2311

(B) The state board of pharmacy shall maintain a record of 2312
each individual or entity that requests information from the 2313
database pursuant to this section. In accordance with rules 2314
adopted under section ~~4729.83~~ 4729.84 of the Revised Code, the 2315
board may use the records to document and report statistics and 2316
law enforcement outcomes. 2317

The board may provide records of an individual's requests for 2318
database information to the following: 2319

(1) A designated representative of a government entity that 2320
is responsible for the licensure, regulation, or discipline of 2321
~~licensed~~ health care professionals authorized with authority to 2322
prescribe, administer, or dispense drugs who is involved in an 2323
active investigation being conducted by the government entity of 2324
the individual who submitted the requests for database 2325
information; 2326

(2) A federal officer, or a state or local officer of this or 2327
any other state, whose duties include enforcing laws relating to 2328
drugs and who is involved in an active investigation being 2329
conducted by the officer's employing government entity of the 2330
individual who submitted the requests for database information. 2331

(C) Information contained in the database and any information 2332
obtained from it is not a public record. Information contained in 2333
the records of requests for information from the database is not a 2334
public record. Information that does not identify a person may be 2335
released in summary, statistical, or aggregate form. 2336

(D) ~~Nothing in this section requires a pharmacist or~~ 2337
~~prescriber to obtain information about a patient from the~~ 2338
~~database.~~ A pharmacist or prescriber shall not be held liable in 2339
damages to any person in any civil action for injury, death, or 2340

loss to person or property on the basis that the pharmacist or 2341
prescriber did or did not seek or obtain information from the 2342
database. 2343

Sec. ~~4729.80~~ 4729.81. If the state board of pharmacy 2344
establishes and maintains a drug database pursuant to section 2345
4729.75 of the Revised Code, the board shall review the 2346
information in the drug database. If the board determines from the 2347
review that a violation of law may have occurred, it shall notify 2348
the appropriate law enforcement agency or a government entity 2349
responsible for the licensure, regulation, or discipline of 2350
licensed health ~~care~~ professionals authorized to prescribe drugs 2351
and supply information required by the agency or entity for an 2352
investigation of the violation of law that may have occurred. 2353

Sec. ~~4729.81~~ 4729.82. If the state board of pharmacy 2354
establishes a drug database pursuant to section 4729.75 of the 2355
Revised Code, the information collected for the database shall be 2356
retained in the database for at least two years. ~~The~~ Any 2357
information that identifies a patient shall ~~then~~ be destroyed 2358
after it has been retained for two years unless a law enforcement 2359
agency or a government entity responsible for the licensure, 2360
regulation, or discipline of licensed health ~~care~~ professionals 2361
authorized to prescribe drugs has submitted a written request to 2362
the board for retention of ~~specific~~ the information in accordance 2363
with rules adopted by the board under section ~~4729.83~~ 4729.84 of 2364
the Revised Code. 2365

Sec. ~~4729.82~~ 4729.83. (A) If the state board of pharmacy 2366
establishes and maintains a drug database pursuant to section 2367
4729.75 of the Revised Code, the board shall not impose any charge 2368
on a terminal distributor of dangerous drugs, pharmacist, or 2369
prescriber for the establishment or maintenance of the database. 2370

The board shall not charge any fees for the transmission of data 2371
to the database or for the receipt of information from the 2372
database, except that the board may charge a fee in accordance 2373
with rules adopted under section ~~4729.83~~ 4729.84 of the Revised 2374
Code to an individual who requests the individual's own database 2375
information under section ~~4729.79~~ 4729.80 of the Revised Code. 2376

(B) The board may accept grants, gifts, or donations for 2377
purposes of the drug database. Any money received shall be 2378
deposited into the state treasury to the credit of the drug 2379
database fund, which is hereby created. Money in the fund shall be 2380
used solely for purposes of the drug database. 2381

Sec. ~~4729.83~~ 4729.84. For purposes of establishing and 2382
maintaining a drug database pursuant to section 4729.75 of the 2383
Revised Code, the state board of pharmacy shall adopt rules in 2384
accordance with Chapter 119. of the Revised Code to carry out and 2385
enforce sections 4729.75 to ~~4729.82~~ 4729.83 of the Revised Code. 2386
The rules shall specify all of the following: 2387

(A) A means of identifying each patient, each terminal 2388
distributor of dangerous drugs, and each purchase at wholesale of 2389
dangerous drugs about which information is entered into the drug 2390
database; 2391

(B) Requirements for the transmission of information from 2392
terminal distributors ~~and~~ of dangerous drugs, wholesale 2393
distributors of dangerous drugs ~~for purposes of the database, and~~ 2394
prescribers; 2395

(C) An electronic format for the submission of information 2396
from terminal distributors ~~and~~, wholesale distributors ~~of~~ 2397
~~dangerous drugs, and prescribers~~; 2398

(D) A procedure whereby a terminal distributor ~~or a~~, 2399
wholesale distributor ~~of dangerous drugs~~, or prescriber unable to 2400

submit information electronically may obtain a waiver to submit 2401
information in another format; 2402

(E) A procedure whereby the board may grant a request from a 2403
law enforcement agency or a government entity responsible for the 2404
licensure, regulation, or discipline of licensed health ~~care~~ 2405
professionals authorized to prescribe drugs that information that 2406
has been stored for two years be retained when the information 2407
pertains to an open investigation being conducted by the agency or 2408
entity; 2409

(F) A procedure whereby a terminal ~~or~~ distributor, wholesale 2410
distributor, or prescriber may apply for an extension to the time 2411
by which information must be transmitted to the board; 2412

(G) A procedure whereby a person or government entity to 2413
which the board is authorized to provide information may submit a 2414
request to the board for the information and the board may verify 2415
the identity of the requestor; 2416

(H) A procedure whereby the board can use the database 2417
request records required by division (B) of section ~~4729.79~~ 2418
4729.80 of the Revised Code to document and report statistics and 2419
law enforcement outcomes; 2420

(I) A procedure whereby an individual may request the 2421
individual's own database information and the board may verify the 2422
identity of the requestor; 2423

(J) A reasonable fee that the board may charge under section 2424
~~4729.82~~ 4729.83 of the Revised Code for providing an individual 2425
with the individual's own database information pursuant to section 2426
~~4729.79~~ 4729.80 of the Revised Code; 2427

(K) The other specific dangerous drugs ~~other than that, in~~ 2428
addition to controlled substances ~~that,~~ must be included in the 2429
database; 2430

(L) The types of pharmacies licensed as terminal distributors 2431
of dangerous drugs that are required to submit prescription 2432
information to the board pursuant to section 4729.77 of the 2433
Revised Code. 2434

Sec. ~~4729.84~~ 4729.85. (A) If the state board of pharmacy 2435
establishes and maintains a drug database pursuant to section 2436
4729.75 of the Revised Code, the board shall present a biennial 2437
report to the standing committees of the house of representatives 2438
and the senate that are primarily responsible for considering 2439
health and human services issues. The initial report shall be 2440
presented not later than two years after the database is 2441
established. 2442

(B) Each report presented under this section shall include 2443
all of the following: 2444

(1) The cost to the state of establishing and maintaining the 2445
database; 2446

(2) Information from terminal distributors of dangerous 2447
drugs, prescribers, and the board regarding the board's 2448
effectiveness in providing information from the database; 2449

(3) The board's timeliness in transmitting information from 2450
the database. 2451

Sec. 4729.86. If the state board of pharmacy establishes and 2452
maintains a drug database pursuant to section 4729.75 of the 2453
Revised Code, all of the following apply: 2454

(A)(1) No person identified in divisions (A)(1) to (10) or 2455
(B) of section 4729.80 of the Revised Code shall disseminate any 2456
written or electronic document the person receives from the drug 2457
database, except as necessary in the investigation or prosecution 2458
of a possible or alleged criminal offense. 2459

(2) No person shall provide false information to the state board of pharmacy with the intent to obtain information contained in the drug database. 2460
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(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. 2463
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(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. 2466
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(C)(1) The board may restrict a person from obtaining further information from the drug database if any of the following is the case: 2469
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(a) The person is convicted of or pleads guilty to a violation of division (A)(1), (2), or (3) of this section; 2472
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(b) The person is a requestor identified in division (A)(11) 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; 2474
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(c) The person fails to comply with division (B) of this section, regardless of the jurisdiction in which the failure to comply occurred. 2478
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(2) The board shall determine the extent to which the person is restricted from obtaining further information from the database. 2481
2482
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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. 2484
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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. 2488
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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.

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of
the Revised Code is guilty of a misdemeanor.

(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.

(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
Chapter 2925. or 3719. of the Revised Code, that person is guilty
of a felony of the fourth degree.

(2) If an offender is convicted of or pleads guilty to a
violation of section 4729.37, division (C) of section 4729.51,
division (J) of section 4729.54, or section 4729.61 of the Revised
Code, if the violation involves the sale, offer to sell, or
possession of a schedule I or II controlled substance, with the
exception of marihuana, and if the court imposing sentence upon
the offender finds that the offender as a result of the violation
is a major drug offender, as defined in section 2929.01 of the
Revised Code, and is guilty of a specification of the type
described in section 2941.1410 of the Revised Code, the court, in
lieu of the prison term authorized or required by division (E)(1)
of this section and sections 2929.13 and 2929.14 of the Revised
Code and in addition to any other sanction imposed for the offense
under sections 2929.11 to 2929.18 of the Revised Code, shall
impose upon the offender, in accordance with division (D)(3)(a) of
section 2929.14 of the Revised Code, the mandatory prison term

specified in that division and may impose an additional prison 2522
term under division (D)(3)(b) of that section. 2523

(3) Notwithstanding any contrary provision of section 3719.21 2524
of the Revised Code, the clerk of court shall pay any fine imposed 2525
for a violation of section 4729.37, division (C) of section 2526
4729.51, division (J) of section 4729.54, or section 4729.61 of 2527
the Revised Code pursuant to division (A) of section 2929.18 of 2528
the Revised Code in accordance with and subject to the 2529
requirements of division (F) of section 2925.03 of the Revised 2530
Code. The agency that receives the fine shall use the fine as 2531
specified in division (F) of section 2925.03 of the Revised Code. 2532

(F) Whoever violates section 4729.531 of the Revised Code or 2533
any rule adopted thereunder or section 4729.532 of the Revised 2534
Code is guilty of a misdemeanor of the first degree. 2535

(G) Whoever violates division (C)(1) of section 4729.51 of 2536
the Revised Code is guilty of a felony of the fourth degree. If 2537
the offender has previously been convicted of or pleaded guilty to 2538
a violation of this chapter, or of a violation of Chapter 2925. or 2539
3719. of the Revised Code, that person is guilty of a felony of 2540
the third degree. 2541

(H) Whoever violates division (C)(3) of section 4729.51 of 2542
the Revised Code is guilty of a misdemeanor of the first degree. 2543
If the offender has previously been convicted of or pleaded guilty 2544
to a violation of this chapter, or of a violation of Chapter 2925. 2545
or 3719. of the Revised Code, that person is guilty of a felony of 2546
the fifth degree. 2547

(I)(1) Whoever violates division (B) of section 4729.42 of 2548
the Revised Code is guilty of unauthorized pharmacy-related drug 2549
conduct. Except as otherwise provided in this section, 2550
unauthorized pharmacy-related drug conduct is a misdemeanor of the 2551
second degree. If the offender previously has been convicted of or 2552

pleaded guilty to a violation of division (B), (C), (D), or (E) of 2553
that section, unauthorized pharmacy-related drug conduct is a 2554
misdemeanor of the first degree on a second offense and a felony 2555
of the fifth degree on a third or subsequent offense. 2556

(2) Whoever violates division (C) or (D) of section 4729.42 2557
of the Revised Code is guilty of permitting unauthorized 2558
pharmacy-related drug conduct. Except as otherwise provided in 2559
this section, permitting unauthorized pharmacy-related drug 2560
conduct is a misdemeanor of the second degree. If the offender 2561
previously has been convicted of or pleaded guilty to a violation 2562
of division (B), (C), (D), or (E) of that section, permitting 2563
unauthorized pharmacy-related drug conduct is a misdemeanor of the 2564
first degree on a second offense and a felony of the fifth degree 2565
on a third or subsequent offense. 2566

(3) Whoever violates division (E) of section 4729.42 of the 2567
Revised Code is guilty of the offense of falsification under 2568
section 2921.13 of the Revised Code. In addition to any other 2569
sanction imposed for the violation, the offender is forever 2570
disqualified from engaging in any activity specified in division 2571
(B)(1), (2), or (3) of section 4729.42 of the Revised Code and 2572
from performing any function as a health care professional or 2573
health care worker. As used in this division, "health care 2574
professional" and "health care worker" have the same meanings as 2575
in section 2305.234 of the Revised Code. 2576

(4) Notwithstanding any contrary provision of section 3719.21 2577
of the Revised Code or any other provision of law that governs the 2578
distribution of fines, the clerk of the court shall pay any fine 2579
imposed pursuant to division (I)(1), (2), or (3) of this section 2580
to the state board of pharmacy if the board has adopted a written 2581
internal control policy under division (F)(2) of section 2925.03 2582
of the Revised Code that addresses fine moneys that it receives 2583
under Chapter 2925. of the Revised Code and if the policy also 2584

addresses fine moneys paid under this division. The state board of 2585
pharmacy shall use the fines so paid in accordance with the 2586
written internal control policy to subsidize the board's law 2587
enforcement efforts that pertain to drug offenses. 2588

(J)(1) Whoever violates division (A)(1) of section 4729.86 of 2589
the Revised Code is guilty of a misdemeanor of the third degree. 2590
If the offender has previously been convicted of or pleaded guilty 2591
to a violation of division (A)(1), (2), or (3) of section 4729.86 2592
of the Revised Code, that person is guilty of a misdemeanor of the 2593
first degree. 2594

(2) Whoever violates division (A)(2) of section 4729.86 of 2595
the Revised Code is guilty of a misdemeanor of the first degree. 2596
If the offender has previously been convicted of or pleaded guilty 2597
to a violation of division (A)(1), (2), or (3) of section 4729.86 2598
of the Revised Code, that person is guilty of a felony of the 2599
fifth degree. 2600

(3) Whoever violates division (A)(3) of section 4729.86 of 2601
the Revised Code is guilty of a felony of the fifth degree. If the 2602
offender has previously been convicted of or pleaded guilty to a 2603
violation of division (A)(1), (2), or (3) of section 4729.86 of 2604
the Revised Code, that person is guilty of a felony of the fourth 2605
degree. 2606

(K) A person who violates division (C) of section 4729.552 of 2607
the Revised Code is guilty of a misdemeanor of the first degree. 2608
If the person previously has been convicted of or pleaded guilty 2609
to a violation of division (C) of section 4729.552 of the Revised 2610
Code, that person is guilty of a felony of the fifth degree. 2611

Sec. 4730.53. (A) As used in this section, "drug database" 2612
means the database established and maintained by the state board 2613
of pharmacy pursuant to section 4729.75 of the Revised Code. 2614

(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.

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

Sec. 4731.052. (A) As used in this section:

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

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

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

(B) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by physicians in the diagnosis and treatment of ~~intractable~~ chronic pain, including standards for managing ~~intractable~~ chronic pain by prescribing, personally

furnishing, or administering dangerous drugs in amounts or 2645
combinations that may not be appropriate when treating other 2646
medical conditions. In developing the rules, the board shall 2647
consult with and permit review by physicians who are experienced 2648
in the diagnosis and treatment of ~~intractable~~ chronic pain. 2649

(C) When a physician diagnoses an individual as having 2650
~~intractable~~ chronic pain, the physician may treat the pain by 2651
managing it with dangerous drugs in amounts or combinations that 2652
may not be appropriate when treating other medical conditions. The 2653
physician's diagnosis shall be made after having the individual 2654
evaluated by one or more other physicians who specialize in the 2655
treatment of the area, system, or organ of the body perceived as 2656
the source of the pain. The physician's diagnosis and treatment 2657
decisions shall be made according to accepted and prevailing 2658
standards for medical care. The physician shall maintain a record 2659
of all of the following: 2660

(1) Medical history and physical examination of the 2661
individual; 2662

(2) The diagnosis of ~~intractable~~ chronic pain, including 2663
signs, symptoms, and causes; 2664

(3) The plan of treatment proposed, the patient's response to 2665
treatment, and any modification to the plan of treatment; 2666

(4) The dates on which dangerous drugs were prescribed, 2667
furnished, or administered, the name and address of the individual 2668
to or for whom the dangerous drugs were prescribed, dispensed, or 2669
administered, and the amounts and dosage forms for the dangerous 2670
drugs prescribed, furnished, or administered; 2671

(5) A copy of the report made by the physician or the 2672
physician to whom referral for evaluation was made under this 2673
division. 2674

(D) A physician who treats ~~intractable~~ chronic pain by 2675

managing it with dangerous drugs is not subject to disciplinary 2676
action by the board under section 4731.22 of the Revised Code 2677
solely because the physician treated the ~~intractable~~ chronic pain 2678
with dangerous drugs. ~~The physician is subject to disciplinary~~ 2679
~~action only if the dangerous drugs are not prescribed, furnished,~~ 2680
~~or administered in accordance with this section and the rules~~ 2681
~~adopted under it.~~ 2682

Sec. 4731.054. (A) As used in this section: 2683

(1) "Chronic pain" has the same meaning as in section 2684
4731.052 of the Revised Code. 2685

(2) "Controlled substance" has the same meaning as in section 2686
3719.01 of the Revised Code. 2687

(3) "Owner" means each person included on the list maintained 2688
under division (B)(5) of section 4729.552 of the Revised Code. 2689

(4)(a) "Pain management clinic" means a facility to which all 2690
of the following apply: 2691

(i) The primary component of practice is treatment of pain or 2692
chronic pain; 2693

(ii) The majority of patients of the prescribers at the 2694
facility are provided treatment for pain or chronic pain that 2695
includes the use of controlled substances, tramadol, carisoprodol, 2696
or other drugs specified in rules adopted under this section; 2697

(iii) The facility meets any other identifying criteria 2698
established in rules adopted under this section. 2699

(b) "Pain management clinic" does not include any of the 2700
following: 2701

(i) A hospital registered with the department of health under 2702
section 3701.07 of the Revised Code or a facility owned in whole 2703
or in part by a hospital; 2704

(ii) A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians or any affiliated facility to the extent that it participates in the provision of that instruction; 2705
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(iii) A hospice program licensed under Chapter 3712. of the Revised Code; 2711
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(iv) An ambulatory surgical facility licensed under section 3702.30 of the Revised Code. 2713
2714

(5) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery. 2715
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(6) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code. 2718
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(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. 2720
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(C) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following: 2726
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(1) Standards and procedures for the operation of a pain management clinic; 2729
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(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic; 2731
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(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 2733
2734

facility as a pain management clinic; 2735

(4) For purposes of division (A)(4)(a)(iii) of this section, 2736
the other criteria that identify a facility as a pain management 2737
clinic; 2738

(5) For purposes of division (B) of this section, standards 2739
and procedures to be followed by an owner in providing 2740
supervision, direction, and control of individuals at a pain 2741
management clinic. 2742

(D) The board may impose a fine of not more than twenty 2743
thousand dollars on a physician who fails to comply with rules 2744
adopted under this section. The fine may be in addition to or in 2745
lieu of any other action that may be taken under section 4731.22 2746
of the Revised Code. The board shall deposit any amounts received 2747
under this division in accordance with section 4731.24 of the 2748
Revised Code. 2749

Sec. 4731.055. (A) As used in this section: 2750

(1) "Drug database" means the database established and 2751
maintained by the state board of pharmacy pursuant to section 2752
4729.75 of the Revised Code. 2753

(2) "Physician" means an individual authorized under this 2754
chapter to practice medicine and surgery, osteopathic medicine and 2755
surgery, or podiatric medicine and surgery. 2756

(B) The state medical board shall adopt rules in accordance 2757
with Chapter 119. of the Revised Code that establish standards and 2758
procedures to be followed by a physician regarding the review of 2759
patient information available through the drug database. 2760

(C) This section and the rules adopted under it do not apply 2761
if the state board of pharmacy no longer maintains the drug 2762
database. 2763

Sec. 4731.22. (A) The state medical board, by an affirmative 2764
vote of not fewer than six of its members, may revoke or may 2765
refuse to grant a certificate to a person found by the board to 2766
have committed fraud during the administration of the examination 2767
for a certificate to practice or to have committed fraud, 2768
misrepresentation, or deception in applying for or securing any 2769
certificate to practice or certificate of registration issued by 2770
the board. 2771

(B) The board, by an affirmative vote of not fewer than six 2772
members, shall, to the extent permitted by law, limit, revoke, or 2773
suspend an individual's certificate to practice, refuse to 2774
register an individual, refuse to reinstate a certificate, or 2775
reprimand or place on probation the holder of a certificate for 2776
one or more of the following reasons: 2777

(1) Permitting one's name or one's certificate to practice or 2778
certificate of registration to be used by a person, group, or 2779
corporation when the individual concerned is not actually 2780
directing the treatment given; 2781

(2) Failure to maintain minimal standards applicable to the 2782
selection or administration of drugs, or failure to employ 2783
acceptable scientific methods in the selection of drugs or other 2784
modalities for treatment of disease; 2785

(3) Selling, giving away, personally furnishing, prescribing, 2786
or administering drugs for other than legal and legitimate 2787
therapeutic purposes or a plea of guilty to, a judicial finding of 2788
guilt of, or a judicial finding of eligibility for intervention in 2789
lieu of conviction of, a violation of any federal or state law 2790
regulating the possession, distribution, or use of any drug; 2791

(4) Willfully betraying a professional confidence. 2792

For purposes of this division, "willfully betraying a 2793

professional confidence" does not include providing any 2794
information, documents, or reports to a child fatality review 2795
board under sections 307.621 to 307.629 of the Revised Code and 2796
does not include the making of a report of an employee's use of a 2797
drug of abuse, or a report of a condition of an employee other 2798
than one involving the use of a drug of abuse, to the employer of 2799
the employee as described in division (B) of section 2305.33 of 2800
the Revised Code. Nothing in this division affects the immunity 2801
from civil liability conferred by that section upon a physician 2802
who makes either type of report in accordance with division (B) of 2803
that section. As used in this division, "employee," "employer," 2804
and "physician" have the same meanings as in section 2305.33 of 2805
the Revised Code. 2806

(5) Making a false, fraudulent, deceptive, or misleading 2807
statement in the solicitation of or advertising for patients; in 2808
relation to the practice of medicine and surgery, osteopathic 2809
medicine and surgery, podiatric medicine and surgery, or a limited 2810
branch of medicine; or in securing or attempting to secure any 2811
certificate to practice or certificate of registration issued by 2812
the board. 2813

As used in this division, "false, fraudulent, deceptive, or 2814
misleading statement" means a statement that includes a 2815
misrepresentation of fact, is likely to mislead or deceive because 2816
of a failure to disclose material facts, is intended or is likely 2817
to create false or unjustified expectations of favorable results, 2818
or includes representations or implications that in reasonable 2819
probability will cause an ordinarily prudent person to 2820
misunderstand or be deceived. 2821

(6) A departure from, or the failure to conform to, minimal 2822
standards of care of similar practitioners under the same or 2823
similar circumstances, whether or not actual injury to a patient 2824
is established; 2825

(7) Representing, with the purpose of obtaining compensation	2826
or other advantage as personal gain or for any other person, that	2827
an incurable disease or injury, or other incurable condition, can	2828
be permanently cured;	2829
(8) The obtaining of, or attempting to obtain, money or	2830
anything of value by fraudulent misrepresentations in the course	2831
of practice;	2832
(9) A plea of guilty to, a judicial finding of guilt of, or a	2833
judicial finding of eligibility for intervention in lieu of	2834
conviction for, a felony;	2835
(10) Commission of an act that constitutes a felony in this	2836
state, regardless of the jurisdiction in which the act was	2837
committed;	2838
(11) A plea of guilty to, a judicial finding of guilt of, or	2839
a judicial finding of eligibility for intervention in lieu of	2840
conviction for, a misdemeanor committed in the course of practice;	2841
(12) Commission of an act in the course of practice that	2842
constitutes a misdemeanor in this state, regardless of the	2843
jurisdiction in which the act was committed;	2844
(13) A plea of guilty to, a judicial finding of guilt of, or	2845
a judicial finding of eligibility for intervention in lieu of	2846
conviction for, a misdemeanor involving moral turpitude;	2847
(14) Commission of an act involving moral turpitude that	2848
constitutes a misdemeanor in this state, regardless of the	2849
jurisdiction in which the act was committed;	2850
(15) Violation of the conditions of limitation placed by the	2851
board upon a certificate to practice;	2852
(16) Failure to pay license renewal fees specified in this	2853
chapter;	2854
(17) Except as authorized in section 4731.31 of the Revised	2855

Code, engaging in the division of fees for referral of patients, 2856
or the receiving of a thing of value in return for a specific 2857
referral of a patient to utilize a particular service or business; 2858

(18) Subject to section 4731.226 of the Revised Code, 2859
violation of any provision of a code of ethics of the American 2860
medical association, the American osteopathic association, the 2861
American podiatric medical association, or any other national 2862
professional organizations that the board specifies by rule. The 2863
state medical board shall obtain and keep on file current copies 2864
of the codes of ethics of the various national professional 2865
organizations. The individual whose certificate is being suspended 2866
or revoked shall not be found to have violated any provision of a 2867
code of ethics of an organization not appropriate to the 2868
individual's profession. 2869

For purposes of this division, a "provision of a code of 2870
ethics of a national professional organization" does not include 2871
any provision that would preclude the making of a report by a 2872
physician of an employee's use of a drug of abuse, or of a 2873
condition of an employee other than one involving the use of a 2874
drug of abuse, to the employer of the employee as described in 2875
division (B) of section 2305.33 of the Revised Code. Nothing in 2876
this division affects the immunity from civil liability conferred 2877
by that section upon a physician who makes either type of report 2878
in accordance with division (B) of that section. As used in this 2879
division, "employee," "employer," and "physician" have the same 2880
meanings as in section 2305.33 of the Revised Code. 2881

(19) Inability to practice according to acceptable and 2882
prevailing standards of care by reason of mental illness or 2883
physical illness, including, but not limited to, physical 2884
deterioration that adversely affects cognitive, motor, or 2885
perceptive skills. 2886

In enforcing this division, the board, upon a showing of a 2887

possible violation, may compel any individual authorized to 2888
practice by this chapter or who has submitted an application 2889
pursuant to this chapter to submit to a mental examination, 2890
physical examination, including an HIV test, or both a mental and 2891
a physical examination. The expense of the examination is the 2892
responsibility of the individual compelled to be examined. Failure 2893
to submit to a mental or physical examination or consent to an HIV 2894
test ordered by the board constitutes an admission of the 2895
allegations against the individual unless the failure is due to 2896
circumstances beyond the individual's control, and a default and 2897
final order may be entered without the taking of testimony or 2898
presentation of evidence. If the board finds an individual unable 2899
to practice because of the reasons set forth in this division, the 2900
board shall require the individual to submit to care, counseling, 2901
or treatment by physicians approved or designated by the board, as 2902
a condition for initial, continued, reinstated, or renewed 2903
authority to practice. An individual affected under this division 2904
shall be afforded an opportunity to demonstrate to the board the 2905
ability to resume practice in compliance with acceptable and 2906
prevailing standards under the provisions of the individual's 2907
certificate. For the purpose of this division, any individual who 2908
applies for or receives a certificate to practice under this 2909
chapter accepts the privilege of practicing in this state and, by 2910
so doing, shall be deemed to have given consent to submit to a 2911
mental or physical examination when directed to do so in writing 2912
by the board, and to have waived all objections to the 2913
admissibility of testimony or examination reports that constitute 2914
a privileged communication. 2915

(20) Except when civil penalties are imposed under section 2916
4731.225 or 4731.281 of the Revised Code, and subject to section 2917
4731.226 of the Revised Code, violating or attempting to violate, 2918
directly or indirectly, or assisting in or abetting the violation 2919
of, or conspiring to violate, any provisions of this chapter or 2920

any rule promulgated by the board. 2921

This division does not apply to a violation or attempted 2922
violation of, assisting in or abetting the violation of, or a 2923
conspiracy to violate, any provision of this chapter or any rule 2924
adopted by the board that would preclude the making of a report by 2925
a physician of an employee's use of a drug of abuse, or of a 2926
condition of an employee other than one involving the use of a 2927
drug of abuse, to the employer of the employee as described in 2928
division (B) of section 2305.33 of the Revised Code. Nothing in 2929
this division affects the immunity from civil liability conferred 2930
by that section upon a physician who makes either type of report 2931
in accordance with division (B) of that section. As used in this 2932
division, "employee," "employer," and "physician" have the same 2933
meanings as in section 2305.33 of the Revised Code. 2934

(21) The violation of section 3701.79 of the Revised Code or 2935
of any abortion rule adopted by the public health council pursuant 2936
to section 3701.341 of the Revised Code; 2937

(22) Any of the following actions taken by ~~the~~ an agency 2938
responsible for authorizing, certifying, or regulating the 2939
~~practice of medicine and surgery, osteopathic medicine and~~ 2940
~~surgery, podiatric medicine and surgery, or the limited branches~~ 2941
~~of medicine in an individual to practice a health care occupation~~ 2942
or provide health care services in this state or another 2943
jurisdiction, for any reason other than the nonpayment of fees: 2944
the limitation, revocation, or suspension of an individual's 2945
license to practice; acceptance of an individual's license 2946
surrender; denial of a license; refusal to renew or reinstate a 2947
license; imposition of probation; or issuance of an order of 2948
censure or other reprimand; 2949

(23) The violation of section 2919.12 of the Revised Code or 2950
the performance or inducement of an abortion upon a pregnant woman 2951
with actual knowledge that the conditions specified in division 2952

(B) of section 2317.56 of the Revised Code have not been satisfied 2953
or with a heedless indifference as to whether those conditions 2954
have been satisfied, unless an affirmative defense as specified in 2955
division (H)(2) of that section would apply in a civil action 2956
authorized by division (H)(1) of that section; 2957

(24) The revocation, suspension, restriction, reduction, or 2958
termination of clinical privileges by the United States department 2959
of defense or department of veterans affairs or the termination or 2960
suspension of a certificate of registration to prescribe drugs by 2961
the drug enforcement administration of the United States 2962
department of justice; 2963

(25) Termination or suspension from participation in the 2964
medicare or medicaid programs by the department of health and 2965
human services or other responsible agency for any act or acts 2966
that also would constitute a violation of division (B)(2), (3), 2967
(6), (8), or (19) of this section; 2968

(26) Impairment of ability to practice according to 2969
acceptable and prevailing standards of care because of habitual or 2970
excessive use or abuse of drugs, alcohol, or other substances that 2971
impair ability to practice. 2972

For the purposes of this division, any individual authorized 2973
to practice by this chapter accepts the privilege of practicing in 2974
this state subject to supervision by the board. By filing an 2975
application for or holding a certificate to practice under this 2976
chapter, an individual shall be deemed to have given consent to 2977
submit to a mental or physical examination when ordered to do so 2978
by the board in writing, and to have waived all objections to the 2979
admissibility of testimony or examination reports that constitute 2980
privileged communications. 2981

If it has reason to believe that any individual authorized to 2982
practice by this chapter or any applicant for certification to 2983

practice suffers such impairment, the board may compel the 2984
individual to submit to a mental or physical examination, or both. 2985
The expense of the examination is the responsibility of the 2986
individual compelled to be examined. Any mental or physical 2987
examination required under this division shall be undertaken by a 2988
treatment provider or physician who is qualified to conduct the 2989
examination and who is chosen by the board. 2990

Failure to submit to a mental or physical examination ordered 2991
by the board constitutes an admission of the allegations against 2992
the individual unless the failure is due to circumstances beyond 2993
the individual's control, and a default and final order may be 2994
entered without the taking of testimony or presentation of 2995
evidence. If the board determines that the individual's ability to 2996
practice is impaired, the board shall suspend the individual's 2997
certificate or deny the individual's application and shall require 2998
the individual, as a condition for initial, continued, reinstated, 2999
or renewed certification to practice, to submit to treatment. 3000

Before being eligible to apply for reinstatement of a 3001
certificate suspended under this division, the impaired 3002
practitioner shall demonstrate to the board the ability to resume 3003
practice in compliance with acceptable and prevailing standards of 3004
care under the provisions of the practitioner's certificate. The 3005
demonstration shall include, but shall not be limited to, the 3006
following: 3007

(a) Certification from a treatment provider approved under 3008
section 4731.25 of the Revised Code that the individual has 3009
successfully completed any required inpatient treatment; 3010

(b) Evidence of continuing full compliance with an aftercare 3011
contract or consent agreement; 3012

(c) Two written reports indicating that the individual's 3013
ability to practice has been assessed and that the individual has 3014

been found capable of practicing according to acceptable and 3015
prevailing standards of care. The reports shall be made by 3016
individuals or providers approved by the board for making the 3017
assessments and shall describe the basis for their determination. 3018

The board may reinstate a certificate suspended under this 3019
division after that demonstration and after the individual has 3020
entered into a written consent agreement. 3021

When the impaired practitioner resumes practice, the board 3022
shall require continued monitoring of the individual. The 3023
monitoring shall include, but not be limited to, compliance with 3024
the written consent agreement entered into before reinstatement or 3025
with conditions imposed by board order after a hearing, and, upon 3026
termination of the consent agreement, submission to the board for 3027
at least two years of annual written progress reports made under 3028
penalty of perjury stating whether the individual has maintained 3029
sobriety. 3030

(27) A second or subsequent violation of section 4731.66 or 3031
4731.69 of the Revised Code; 3032

(28) Except as provided in division (N) of this section: 3033

(a) Waiving the payment of all or any part of a deductible or 3034
copayment that a patient, pursuant to a health insurance or health 3035
care policy, contract, or plan that covers the individual's 3036
services, otherwise would be required to pay if the waiver is used 3037
as an enticement to a patient or group of patients to receive 3038
health care services from that individual; 3039

(b) Advertising that the individual will waive the payment of 3040
all or any part of a deductible or copayment that a patient, 3041
pursuant to a health insurance or health care policy, contract, or 3042
plan that covers the individual's services, otherwise would be 3043
required to pay. 3044

(29) Failure to use universal blood and body fluid 3045

precautions established by rules adopted under section 4731.051 of 3046
the Revised Code; 3047

(30) Failure to provide notice to, and receive acknowledgment 3048
of the notice from, a patient when required by section 4731.143 of 3049
the Revised Code prior to providing nonemergency professional 3050
services, or failure to maintain that notice in the patient's 3051
file; 3052

(31) Failure of a physician supervising a physician assistant 3053
to maintain supervision in accordance with the requirements of 3054
Chapter 4730. of the Revised Code and the rules adopted under that 3055
chapter; 3056

(32) Failure of a physician or podiatrist to enter into a 3057
standard care arrangement with a clinical nurse specialist, 3058
certified nurse-midwife, or certified nurse practitioner with whom 3059
the physician or podiatrist is in collaboration pursuant to 3060
section 4731.27 of the Revised Code or failure to fulfill the 3061
responsibilities of collaboration after entering into a standard 3062
care arrangement; 3063

(33) Failure to comply with the terms of a consult agreement 3064
entered into with a pharmacist pursuant to section 4729.39 of the 3065
Revised Code; 3066

(34) Failure to cooperate in an investigation conducted by 3067
the board under division (F) of this section, including failure to 3068
comply with a subpoena or order issued by the board or failure to 3069
answer truthfully a question presented by the board at a 3070
deposition or in written interrogatories, except that failure to 3071
cooperate with an investigation shall not constitute grounds for 3072
discipline under this section if a court of competent jurisdiction 3073
has issued an order that either quashes a subpoena or permits the 3074
individual to withhold the testimony or evidence in issue; 3075

(35) Failure to supervise an acupuncturist in accordance with 3076

Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	3077 3078
(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;	3079 3080 3081
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	3082 3083
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	3084 3085
(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;	3086 3087 3088
(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;	3089 3090 3091
<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 clinic;</u>	3092 3093 3094 3095
<u>(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;</u>	3096 3097 3098 3099
<u>(43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code.</u>	3100 3101 3102 3103
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that	3104 3105 3106

in lieu of an adjudication, the board may enter into a consent 3107
agreement with an individual to resolve an allegation of a 3108
violation of this chapter or any rule adopted under it. A consent 3109
agreement, when ratified by an affirmative vote of not fewer than 3110
six members of the board, shall constitute the findings and order 3111
of the board with respect to the matter addressed in the 3112
agreement. If the board refuses to ratify a consent agreement, the 3113
admissions and findings contained in the consent agreement shall 3114
be of no force or effect. 3115

A telephone conference call may be utilized for ratification 3116
of a consent agreement that revokes or suspends an individual's 3117
certificate to practice. The telephone conference call shall be 3118
considered a special meeting under division (F) of section 121.22 3119
of the Revised Code. 3120

If the board takes disciplinary action against an individual 3121
under division (B) of this section for a second or subsequent plea 3122
of guilty to, or judicial finding of guilt of, a violation of 3123
section 2919.123 of the Revised Code, the disciplinary action 3124
shall consist of a suspension of the individual's certificate to 3125
practice for a period of at least one year or, if determined 3126
appropriate by the board, a more serious sanction involving the 3127
individual's certificate to practice. Any consent agreement 3128
entered into under this division with an individual that pertains 3129
to a second or subsequent plea of guilty to, or judicial finding 3130
of guilt of, a violation of that section shall provide for a 3131
suspension of the individual's certificate to practice for a 3132
period of at least one year or, if determined appropriate by the 3133
board, a more serious sanction involving the individual's 3134
certificate to practice. 3135

(D) For purposes of divisions (B)(10), (12), and (14) of this 3136
section, the commission of the act may be established by a finding 3137
by the board, pursuant to an adjudication under Chapter 119. of 3138

the Revised Code, that the individual committed the act. The board 3139
does not have jurisdiction under those divisions if the trial 3140
court renders a final judgment in the individual's favor and that 3141
judgment is based upon an adjudication on the merits. The board 3142
has jurisdiction under those divisions if the trial court issues 3143
an order of dismissal upon technical or procedural grounds. 3144

(E) The sealing of conviction records by any court shall have 3145
no effect upon a prior board order entered under this section or 3146
upon the board's jurisdiction to take action under this section 3147
if, based upon a plea of guilty, a judicial finding of guilt, or a 3148
judicial finding of eligibility for intervention in lieu of 3149
conviction, the board issued a notice of opportunity for a hearing 3150
prior to the court's order to seal the records. The board shall 3151
not be required to seal, destroy, redact, or otherwise modify its 3152
records to reflect the court's sealing of conviction records. 3153

(F)(1) The board shall investigate evidence that appears to 3154
show that a person has violated any provision of this chapter or 3155
any rule adopted under it. Any person may report to the board in a 3156
signed writing any information that the person may have that 3157
appears to show a violation of any provision of this chapter or 3158
any rule adopted under it. In the absence of bad faith, any person 3159
who reports information of that nature or who testifies before the 3160
board in any adjudication conducted under Chapter 119. of the 3161
Revised Code shall not be liable in damages in a civil action as a 3162
result of the report or testimony. Each complaint or allegation of 3163
a violation received by the board shall be assigned a case number 3164
and shall be recorded by the board. 3165

(2) Investigations of alleged violations of this chapter or 3166
any rule adopted under it shall be supervised by the supervising 3167
member elected by the board in accordance with section 4731.02 of 3168
the Revised Code and by the secretary as provided in section 3169
4731.39 of the Revised Code. The president may designate another 3170

member of the board to supervise the investigation in place of the 3171
supervising member. No member of the board who supervises the 3172
investigation of a case shall participate in further adjudication 3173
of the case. 3174

(3) In investigating a possible violation of this chapter or 3175
any rule adopted under this chapter, the board may administer 3176
oaths, order the taking of depositions, inspect and copy any 3177
books, accounts, papers, records, or documents, issue subpoenas, 3178
and compel the attendance of witnesses and production of books, 3179
accounts, papers, records, documents, and testimony, except that a 3180
subpoena for patient record information shall not be issued 3181
without consultation with the attorney general's office and 3182
approval of the secretary and supervising member of the board. 3183
Before issuance of a subpoena for patient record information, the 3184
secretary and supervising member shall determine whether there is 3185
probable cause to believe that the complaint filed alleges a 3186
violation of this chapter or any rule adopted under it and that 3187
the records sought are relevant to the alleged violation and 3188
material to the investigation. The subpoena may apply only to 3189
records that cover a reasonable period of time surrounding the 3190
alleged violation. 3191

On failure to comply with any subpoena issued by the board 3192
and after reasonable notice to the person being subpoenaed, the 3193
board may move for an order compelling the production of persons 3194
or records pursuant to the Rules of Civil Procedure. 3195

A subpoena issued by the board may be served by a sheriff, 3196
the sheriff's deputy, or a board employee designated by the board. 3197
Service of a subpoena issued by the board may be made by 3198
delivering a copy of the subpoena to the person named therein, 3199
reading it to the person, or leaving it at the person's usual 3200
place of residence. When the person being served is a person whose 3201
practice is authorized by this chapter, service of the subpoena 3202

may be made by certified mail, restricted delivery, return receipt 3203
requested, and the subpoena shall be deemed served on the date 3204
delivery is made or the date the person refuses to accept 3205
delivery. 3206

A sheriff's deputy who serves a subpoena shall receive the 3207
same fees as a sheriff. Each witness who appears before the board 3208
in obedience to a subpoena shall receive the fees and mileage 3209
provided for under section 119.094 of the Revised Code. 3210

(4) All hearings and investigations of the board shall be 3211
considered civil actions for the purposes of section 2305.252 of 3212
the Revised Code. 3213

(5) Information received by the board pursuant to an 3214
investigation is confidential and not subject to discovery in any 3215
civil action. 3216

The board shall conduct all investigations and proceedings in 3217
a manner that protects the confidentiality of patients and persons 3218
who file complaints with the board. The board shall not make 3219
public the names or any other identifying information about 3220
patients or complainants unless proper consent is given or, in the 3221
case of a patient, a waiver of the patient privilege exists under 3222
division (B) of section 2317.02 of the Revised Code, except that 3223
consent or a waiver of that nature is not required if the board 3224
possesses reliable and substantial evidence that no bona fide 3225
physician-patient relationship exists. 3226

The board may share any information it receives pursuant to 3227
an investigation, including patient records and patient record 3228
information, with law enforcement agencies, other licensing 3229
boards, and other governmental agencies that are prosecuting, 3230
adjudicating, or investigating alleged violations of statutes or 3231
administrative rules. An agency or board that receives the 3232
information shall comply with the same requirements regarding 3233

confidentiality as those with which the state medical board must 3234
comply, notwithstanding any conflicting provision of the Revised 3235
Code or procedure of the agency or board that applies when it is 3236
dealing with other information in its possession. In a judicial 3237
proceeding, the information may be admitted into evidence only in 3238
accordance with the Rules of Evidence, but the court shall require 3239
that appropriate measures are taken to ensure that confidentiality 3240
is maintained with respect to any part of the information that 3241
contains names or other identifying information about patients or 3242
complainants whose confidentiality was protected by the state 3243
medical board when the information was in the board's possession. 3244
Measures to ensure confidentiality that may be taken by the court 3245
include sealing its records or deleting specific information from 3246
its records. 3247

(6) On a quarterly basis, the board shall prepare a report 3248
that documents the disposition of all cases during the preceding 3249
three months. The report shall contain the following information 3250
for each case with which the board has completed its activities: 3251

(a) The case number assigned to the complaint or alleged 3252
violation; 3253

(b) The type of certificate to practice, if any, held by the 3254
individual against whom the complaint is directed; 3255

(c) A description of the allegations contained in the 3256
complaint; 3257

(d) The disposition of the case. 3258

The report shall state how many cases are still pending and 3259
shall be prepared in a manner that protects the identity of each 3260
person involved in each case. The report shall be a public record 3261
under section 149.43 of the Revised Code. 3262

(G) If the secretary and supervising member determine ~~that~~ 3263
there both of the following, they may recommend that the board 3264

suspend an individual's certificate to practice without a prior hearing: 3265
3266

(1) That there is clear and convincing evidence that an 3267
individual has violated division (B) of this section ~~and that;~~ 3268

(2) That the individual's continued practice presents a 3269
danger of immediate and serious harm to the public, ~~they may~~ 3270
~~recommend that the board suspend the individual's certificate to~~ 3271
~~practice without a prior hearing. Written~~ 3272

Written allegations shall be prepared for consideration by 3273
the board. The 3274

~~The~~ board, upon review of those allegations and by an 3275
affirmative vote of not fewer than six of its members, excluding 3276
the secretary and supervising member, may suspend a certificate 3277
without a prior hearing. A telephone conference call may be 3278
utilized for reviewing the allegations and taking the vote on the 3279
summary suspension. 3280

The board shall issue a written order of suspension by 3281
certified mail or in person in accordance with section 119.07 of 3282
the Revised Code. The order shall not be subject to suspension by 3283
the court during pendency of any appeal filed under section 119.12 3284
of the Revised Code. If the individual subject to the summary 3285
suspension requests an adjudicatory hearing by the board, the date 3286
set for the hearing shall be within fifteen days, but not earlier 3287
than seven days, after the individual requests the hearing, unless 3288
otherwise agreed to by both the board and the individual. 3289

Any summary suspension imposed under this division shall 3290
remain in effect, unless reversed on appeal, until a final 3291
adjudicative order issued by the board pursuant to this section 3292
and Chapter 119. of the Revised Code becomes effective. The board 3293
shall issue its final adjudicative order within seventy-five days 3294
after completion of its hearing. A failure to issue the order 3295

within seventy-five days shall result in dissolution of the 3296
summary suspension order but shall not invalidate any subsequent, 3297
final adjudicative order. 3298

(H) If the board takes action under division (B)(9), (11), or 3299
(13) of this section and the judicial finding of guilt, guilty 3300
plea, or judicial finding of eligibility for intervention in lieu 3301
of conviction is overturned on appeal, upon exhaustion of the 3302
criminal appeal, a petition for reconsideration of the order may 3303
be filed with the board along with appropriate court documents. 3304
Upon receipt of a petition of that nature and supporting court 3305
documents, the board shall reinstate the individual's certificate 3306
to practice. The board may then hold an adjudication under Chapter 3307
119. of the Revised Code to determine whether the individual 3308
committed the act in question. Notice of an opportunity for a 3309
hearing shall be given in accordance with Chapter 119. of the 3310
Revised Code. If the board finds, pursuant to an adjudication held 3311
under this division, that the individual committed the act or if 3312
no hearing is requested, the board may order any of the sanctions 3313
identified under division (B) of this section. 3314

(I) The certificate to practice issued to an individual under 3315
this chapter and the individual's practice in this state are 3316
automatically suspended as of the date of the individual's second 3317
or subsequent plea of guilty to, or judicial finding of guilt of, 3318
a violation of section 2919.123 of the Revised Code, or the date 3319
the individual pleads guilty to, is found by a judge or jury to be 3320
guilty of, or is subject to a judicial finding of eligibility for 3321
intervention in lieu of conviction in this state or treatment or 3322
intervention in lieu of conviction in another jurisdiction for any 3323
of the following criminal offenses in this state or a 3324
substantially equivalent criminal offense in another jurisdiction: 3325
aggravated murder, murder, voluntary manslaughter, felonious 3326
assault, kidnapping, rape, sexual battery, gross sexual 3327

imposition, aggravated arson, aggravated robbery, or aggravated 3328
burglary. Continued practice after suspension shall be considered 3329
practicing without a certificate. 3330

The board shall notify the individual subject to the 3331
suspension by certified mail or in person in accordance with 3332
section 119.07 of the Revised Code. If an individual whose 3333
certificate is automatically suspended under this division fails 3334
to make a timely request for an adjudication under Chapter 119. of 3335
the Revised Code, the board shall do whichever of the following is 3336
applicable: 3337

(1) If the automatic suspension under this division is for a 3338
second or subsequent plea of guilty to, or judicial finding of 3339
guilt of, a violation of section 2919.123 of the Revised Code, the 3340
board shall enter an order suspending the individual's certificate 3341
to practice for a period of at least one year or, if determined 3342
appropriate by the board, imposing a more serious sanction 3343
involving the individual's certificate to practice. 3344

(2) In all circumstances in which division (I)(1) of this 3345
section does not apply, enter a final order permanently revoking 3346
the individual's certificate to practice. 3347

(J) If the board is required by Chapter 119. of the Revised 3348
Code to give notice of an opportunity for a hearing and if the 3349
individual subject to the notice does not timely request a hearing 3350
in accordance with section 119.07 of the Revised Code, the board 3351
is not required to hold a hearing, but may adopt, by an 3352
affirmative vote of not fewer than six of its members, a final 3353
order that contains the board's findings. In that final order, the 3354
board may order any of the sanctions identified under division (A) 3355
or (B) of this section. 3356

(K) Any action taken by the board under division (B) of this 3357
section resulting in a suspension from practice shall be 3358

accompanied by a written statement of the conditions under which 3359
the individual's certificate to practice may be reinstated. The 3360
board shall adopt rules governing conditions to be imposed for 3361
reinstatement. Reinstatement of a certificate suspended pursuant 3362
to division (B) of this section requires an affirmative vote of 3363
not fewer than six members of the board. 3364

(L) When the board refuses to grant a certificate to an 3365
applicant, revokes an individual's certificate to practice, 3366
refuses to register an applicant, or refuses to reinstate an 3367
individual's certificate to practice, the board may specify that 3368
its action is permanent. An individual subject to a permanent 3369
action taken by the board is forever thereafter ineligible to hold 3370
a certificate to practice and the board shall not accept an 3371
application for reinstatement of the certificate or for issuance 3372
of a new certificate. 3373

(M) Notwithstanding any other provision of the Revised Code, 3374
all of the following apply: 3375

(1) The surrender of a certificate issued under this chapter 3376
shall not be effective unless or until accepted by the board. A 3377
telephone conference call may be utilized for acceptance of the 3378
surrender of an individual's certificate to practice. The 3379
telephone conference call shall be considered a special meeting 3380
under division (F) of section 121.22 of the Revised Code. 3381
Reinstatement of a certificate surrendered to the board requires 3382
an affirmative vote of not fewer than six members of the board. 3383

(2) An application for a certificate made under the 3384
provisions of this chapter may not be withdrawn without approval 3385
of the board. 3386

(3) Failure by an individual to renew a certificate of 3387
registration in accordance with this chapter shall not remove or 3388
limit the board's jurisdiction to take any disciplinary action 3389

under this section against the individual. 3390

(N) Sanctions shall not be imposed under division (B)(28) of 3391
this section against any person who waives deductibles and 3392
copayments as follows: 3393

(1) In compliance with the health benefit plan that expressly 3394
allows such a practice. Waiver of the deductibles or copayments 3395
shall be made only with the full knowledge and consent of the plan 3396
purchaser, payer, and third-party administrator. Documentation of 3397
the consent shall be made available to the board upon request. 3398

(2) For professional services rendered to any other person 3399
authorized to practice pursuant to this chapter, to the extent 3400
allowed by this chapter and rules adopted by the board. 3401

(O) Under the board's investigative duties described in this 3402
section and subject to division (F) of this section, the board 3403
shall develop and implement a quality intervention program 3404
designed to improve through remedial education the clinical and 3405
communication skills of individuals authorized under this chapter 3406
to practice medicine and surgery, osteopathic medicine and 3407
surgery, and podiatric medicine and surgery. In developing and 3408
implementing the quality intervention program, the board may do 3409
all of the following: 3410

(1) Offer in appropriate cases as determined by the board an 3411
educational and assessment program pursuant to an investigation 3412
the board conducts under this section; 3413

(2) Select providers of educational and assessment services, 3414
including a quality intervention program panel of case reviewers; 3415

(3) Make referrals to educational and assessment service 3416
providers and approve individual educational programs recommended 3417
by those providers. The board shall monitor the progress of each 3418
individual undertaking a recommended individual educational 3419
program. 3420

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

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

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

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

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

~~Sec. 4731.283. Not later than ninety days after the effective date of this section, the~~ The state medical board shall approve one or more continuing medical education courses of study included within the programs certified by the Ohio state medical association and the Ohio osteopathic association pursuant to section 4731.281 of the Revised Code that assist doctors of medicine and doctors of osteopathic medicine in diagnosing and treating ~~intractable~~ chronic pain, as defined in section 4731.052

of the Revised Code. 3451

Sec. 4731.391. The state medical board may access and view, 3452
but not alter, information gathered and disseminated through the 3453
Ohio law enforcement gateway established under section 109.57 of 3454
the Revised Code. 3455

Sec. 4776.02. (A) An applicant for an initial license or 3456
restored license from a licensing agency, ~~or~~ a person seeking to 3457
satisfy the criteria for being a qualified pharmacy technician 3458
that are specified in section 4729.42 of the Revised Code, or a 3459
person seeking to satisfy the requirements to be an employee of a 3460
pain management clinic as specified in section 4729.552 of the 3461
Revised Code shall submit a request to the bureau of criminal 3462
identification and investigation for a criminal records check of 3463
the applicant or person. The request shall be accompanied by a 3464
completed copy of the form prescribed under division (C)(1) of 3465
section 109.572 of the Revised Code, a set of fingerprint 3466
impressions obtained as described in division (C)(2) of that 3467
section, and the fee prescribed under division (C)(3) of that 3468
section. The applicant or person shall ask the superintendent of 3469
the bureau of criminal identification and investigation in the 3470
request to obtain from the federal bureau of investigation any 3471
information it has pertaining to the applicant or person. 3472

An applicant or person requesting a criminal records check 3473
shall provide the bureau of criminal identification and 3474
investigation with the applicant's or person's name and address 3475
and, regarding an applicant, with the licensing agency's name and 3476
address. 3477

(B) Upon receipt of the completed form, the set of 3478
fingerprint impressions, and the fee provided for in division (A) 3479
of this section, the superintendent of the bureau of criminal 3480

identification and investigation shall conduct a criminal records 3481
check of the applicant or person under division (B) of section 3482
109.572 of the Revised Code. Upon completion of the criminal 3483
records check, the superintendent shall do whichever of the 3484
following is applicable: 3485

(1) If the request was submitted by an applicant for an 3486
initial license or restored license, report the results of the 3487
criminal records check and any information the federal bureau of 3488
investigation provides to the licensing agency identified in the 3489
request for a criminal records check; 3490

(2) If the request was submitted by a person seeking to 3491
satisfy the criteria for being a qualified pharmacy technician 3492
that are specified in section 4729.42 of the Revised Code or a 3493
person seeking to satisfy the requirements to be an employee of a 3494
pain management clinic as specified in section 4729.552 of the 3495
Revised Code, do both of the following: 3496

(a) Report the results of the criminal records check and any 3497
information the federal bureau of investigation provides to the 3498
person who submitted the request; 3499

(b) Report the results of the portion of the criminal records 3500
check performed by the bureau of criminal identification and 3501
investigation under division (B)(1) of section 109.572 of the 3502
Revised Code to the employer or potential employer specified in 3503
the request of the person who submitted the request and send a 3504
letter to that employer or potential employer regarding the 3505
information provided by the federal bureau of investigation that 3506
states either that based on that information there is no record of 3507
any conviction or that based on that information the person who 3508
submitted the request may not meet the criteria that are specified 3509
in section 4729.42 of the Revised Code, whichever is applicable. 3510

Sec. 4776.04. The results of any criminal records check 3511

conducted pursuant to a request made under this chapter and any 3512
report containing those results, including any information the 3513
federal bureau of investigation provides, are not public records 3514
for purposes of section 149.43 of the Revised Code and shall not 3515
be made available to any person or for any purpose other than as 3516
follows: 3517

(A) If the request for the criminal records check was 3518
submitted by an applicant for an initial license or restored 3519
license, as follows: 3520

(1) The superintendent of the bureau of criminal 3521
identification and investigation shall make the results available 3522
to the licensing agency for use in determining, under the agency's 3523
authorizing chapter of the Revised Code, whether the applicant who 3524
is the subject of the criminal records check should be granted a 3525
license under that chapter. 3526

(2) The licensing agency shall make the results available to 3527
the applicant who is the subject of the criminal records check. 3528

(B) If the request for the criminal records check was 3529
submitted by a person seeking to satisfy the criteria for being a 3530
qualified pharmacy technician that are specified in section 3531
4729.42 of the Revised Code or a person seeking to satisfy the 3532
requirements to be an employee of a pain management clinic as 3533
specified in section 4729.552 of the Revised Code, the 3534
superintendent of the bureau of criminal identification and 3535
investigation shall make the results available in accordance with 3536
the following: 3537

(1) The superintendent shall make the results of the criminal 3538
records check, including any information the federal bureau of 3539
investigation provides, available to the person who submitted the 3540
request and is the subject of the criminal records check. 3541

(2) The superintendent shall make the results of the portion 3542

of the criminal records check performed by the bureau of criminal 3543
identification and investigation under division (B)(1) of section 3544
109.572 of the Revised Code available to the employer or potential 3545
employer specified in the request of the person who submitted the 3546
request and shall send a letter of the type described in division 3547
(B)(2) of section 4776.02 of the Revised Code to that employer or 3548
potential employer regarding the information provided by the 3549
federal bureau of investigation that contains one of the types of 3550
statements described in that division. 3551

Sec. 5111.085. Not later than July 1, 2012, the department of 3552
job and family services shall adopt rules in accordance with 3553
Chapter 119. of the Revised Code to implement a coordinated 3554
services program for medicaid recipients who are found to have 3555
obtained prescription drugs under the medicaid program at a 3556
frequency or in an amount that is not medically necessary. The 3557
program shall be implemented in a manner that is consistent with 3558
section 1915(a)(2) of the "Social Security Act," 95 Stat. 810 3559
(1981), 42 U.S.C. 1396n(a)(2), as amended, and 42 C.F.R. 3560
431.54(e). 3561

Sec. 5111.172. (A) When contracting under section 5111.17 of 3562
the Revised Code with a managed care organization that is a health 3563
insuring corporation, the department of job and family services 3564
may require the health insuring corporation to provide coverage of 3565
prescription drugs for medicaid recipients enrolled in the health 3566
insuring corporation. In providing the required coverage, the 3567
health insuring corporation may, subject to the department's 3568
approval, use strategies for the management of drug utilization. 3569

(B) As used in this division, "controlled substance" has the 3570
same meaning as in section 3719.01 of the Revised Code. 3571

If a health insuring corporation is required under this 3572

section to provide coverage of prescription drugs, the department 3573
shall permit the health insuring corporation to develop and 3574
implement a pharmacy utilization management program under which 3575
prior authorization through the program is established as a 3576
condition of obtaining a controlled substance pursuant to a 3577
prescription. ~~The program may include processes for requiring 3578~~
~~medicaid recipients at high risk for fraud or abuse involving 3579~~
~~controlled substances to have their prescriptions for controlled 3580~~
~~substances filled by a pharmacy, medical provider, or health care 3581~~
~~facility designated by the program. 3582~~

Sec. 5111.179. Each contract the department of job and family 3583
services enters into with a managed care organization under 3584
section 5111.17 of the Revised Code shall require the managed care 3585
organization to implement a coordinated services program for 3586
medicaid recipients enrolled in the organization who are found to 3587
have obtained prescription drugs under the medicaid program at a 3588
frequency or in an amount that is not medically necessary. The 3589
program shall be implemented in a manner that is consistent with 3590
section 1915(a)(2) of the "Social Security Act," 95 Stat. 810 3591
(1981), 42 U.S.C. 1396n(a)(2), as amended, and 42 C.F.R. 3592
431.54(e). 3593

Sec. 5111.1710. Each contract the department of job and 3594
family services enters into with a managed care organization under 3595
section 5111.17 of the Revised Code shall require the managed care 3596
organization to enter into a data security agreement with the 3597
state board of pharmacy governing the managed care organization's 3598
use of the board's drug database established and maintained under 3599
section 4729.75 of the Revised Code. 3600

This section does not apply if the board no longer maintains 3601
the drug database. 3602

Section 2. That existing sections 109.57, 325.19, 3719.08, 3603
4715.30, 4723.28, 4729.01, 4729.071, 4729.29, 4729.51, 4729.54, 3604
4729.541, 4729.55, 4729.75, 4729.77, 4729.78, 4729.79, 4729.80, 3605
4729.81, 4729.82, 4729.83, 4729.84, 4729.99, 4731.052, 4731.22, 3606
4731.283, 4776.02, 4776.04, and 5111.172 of the Revised Code are 3607
hereby repealed. 3608

Section 3. This act is hereby declared to be an emergency 3609
measure necessary for the immediate preservation of the public 3610
peace, health, and safety. The reason for such necessity is that 3611
the incidence of unintentional drug poisoning in this state has 3612
increased significantly in recent years and is now a leading cause 3613
of death among the state's citizens, and that immediate action is 3614
necessary to ensure that the sale of certain county hospitals is 3615
not impeded. Therefore, this act shall go into immediate effect. 3616

Section 4. Division (C) of section 4729.552 of the Revised 3617
Code, as enacted by this act, shall take effect thirty days after 3618
the effective date of this section. 3619

Section 5. (A) The State Board of Pharmacy, in consultation 3620
with prescribers and pharmacists, shall consider improvements to 3621
the state's methods of monitoring, through the drug database 3622
established and maintained under section 4729.75 of the Revised 3623
Code, the misuse and diversion of controlled substances. Not later 3624
than six months after the effective date of this section, the 3625
Board shall prepare a report of its findings and recommendations. 3626

(B) In preparing the report, the Board shall include all of 3627
the following: 3628

(1) Recommendations on the establishment of a real-time drug 3629
database that permits information to be immediately submitted to 3630
the database and immediately accessible to the individuals 3631

authorized to access information in the database; 3632

(2) Recommendations on potential improvements to the Board's 3633
existing drug database, including both of the following: 3634

(a) Improvements that are necessary to facilitate information 3635
exchange between the database and database users; 3636

(b) Improvements that allow a drug utilization review to 3637
occur whereby patient use of controlled substances is monitored. 3638

(3) The potential cost of upgrading the Board's existing drug 3639
database or establishing a new database to monitor the misuse or 3640
diversion of controlled substances in this state; 3641

(4) Information on the availability of, and methods to 3642
secure, federal grants necessary to implement the Board's 3643
recommendations; 3644

(5) A description of any other matters the Board considers 3645
relevant to the report. 3646

(C) On completion of the report, the Board shall submit 3647
copies to the Speaker of the House of Representatives, President 3648
of the Senate, and Governor. 3649

Section 6. Section 5111.179 of the Revised Code, as enacted 3650
by this act, shall be implemented by the Department of Job and 3651
Family Services not later than July 1, 2012. On and after the 3652
Department's implementation date, that section applies to 3653
contracts under section 5111.17 of the Revised Code as follows: 3654

(A) To each contract the Department enters into with a 3655
managed care organization on or after the Department's 3656
implementation date; 3657

(B) To each contract between the Department and a managed 3658
care organization that is in effect on the Department's 3659
implementation date if on or after that date the contract is 3660

renewed or the contract is amended or otherwise modified. 3661

Section 7. Section 5111.1710 of the Revised Code, as enacted 3662
by this act, shall be implemented by the Department of Job and 3663
Family Services not later than one year after the effective date 3664
of this section. On and after the Department's implementation 3665
date, that section applies to contracts under section 5111.17 of 3666
the Revised Code as follows: 3667

(A) To each contract the Department enters into with a 3668
managed care organization on or after the Department's 3669
implementation date; 3670

(B) To each contract between the Department and a managed 3671
care organization that is in effect on the Department's 3672
implementation date if on or after that date the contract is 3673
renewed or the contract is amended or otherwise modified. 3674

Section 8. (A) Not later than one year after the effective 3675
date of this section, and annually each year for four years 3676
thereafter, the State Board of Pharmacy shall prepare a report on 3677
all of the following: 3678

(1) The total number of applications received by the Board 3679
for a terminal distributor of dangerous drugs license with a pain 3680
management clinic classification; 3681

(2) The total number of licenses with a pain management 3682
clinic classification granted or denied by the Board; 3683

(3) Any disciplinary actions taken by the Board against 3684
holders of licenses with a pain management clinic classification; 3685

(4) Total revenues generated from fees for licenses with a 3686
pain management clinic classification, fines and penalties paid by 3687
license holders, or other disciplinary actions taken against 3688
license holders; 3689

(5) Any other relevant information regarding the 3690
implementation of this act. 3691

(B) On completion of each report, the Board shall submit a 3692
copy of the report to the Governor and, in accordance with section 3693
101.68 of the Revised Code, the General Assembly. In accordance 3694
with that section, the Board shall display the report on the 3695
Board's internet web site. 3696

Section 9. Section 4731.22 of the Revised Code is presented 3697
in this act as a composite of the section as amended by Am. Sub. 3698
H.B. 280, Sub. H.B. 525, and Sub. S.B. 229 of the 127th General 3699
Assembly. The General Assembly, applying the principle stated in 3700
division (B) of section 1.52 of the Revised Code that amendments 3701
are to be harmonized if reasonably capable of simultaneous 3702
operation, finds that the composite is the resulting version of 3703
the section in effect prior to the effective date of the section 3704
as presented in this act. 3705