

As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 103

Senator Stewart

Cosponsors: Senators Wagoner, Daniels, Beagle

—

A B I L L

To amend sections 3719.08, 4715.30, 4729.01, 1
4729.071, 4729.29, 4729.51, 4729.54, 4729.541, 2
4729.55, 4729.75, 4729.77, 4729.78, 4729.79, 3
4729.80, 4729.81, 4729.82, 4729.83, 4729.99, 4
4731.052, 4731.22, 4731.283, 4776.02, 4776.04, and 5
5111.172; to amend, for the purpose of adopting 6
new section numbers as indicated in parentheses, 7
sections 4729.79 (4729.80), 4729.80 (4729.81), 8
4729.81 (4729.82), 4729.82 (4729.83), 4729.83 9
(4729.84), and 4729.84 (4729.85); and to enact new 10
section 4729.79 and sections 109.90, 313.212, 11
3793.22, 4121.50, 4715.302, 4723.487, 4725.092, 12
4729.162, 4729.291, 4729.552, 4729.561, 4729.571, 13
4729.69, 4729.86, 4730.53, 4731.054, 4731.055, 14
4731.241, 5111.085, 5111.179, and 5111.1710 of the 15
Revised Code to establish and modify laws 16
regarding the prevention of prescription drug 17
abuse and to declare an emergency. 18

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

Section 1. That sections 3719.08, 4715.30, 4729.01, 4729.071, 19
4729.29, 4729.51, 4729.54, 4729.541, 4729.55, 4729.75, 4729.77, 20

4729.78, 4729.79, 4729.80, 4729.81, 4729.82, 4729.83, 4729.99, 21
4731.052, 4731.22, 4731.283, 4776.02, 4776.04, and 5111.172 be 22
amended; sections 4729.79 (4729.80), 4729.80 (4729.81), 4729.81 23
(4729.82), 4729.82 (4729.83), 4729.83 (4729.84), and 4729.84 24
(4729.85) be amended for the purpose of adopting new section 25
numbers as indicated in parentheses; and new section 4729.79 and 26
sections 109.90, 313.212, 3793.22, 4121.50, 4715.302, 4723.487, 27
4725.092, 4729.162, 4729.291, 4729.552, 4729.561, 4729.571, 28
4729.69, 4729.86, 4730.53, 4731.054, 4731.055, 4731.241, 5111.085, 29
5111.179, and 5111.1710 of the Revised Code be enacted to read as 30
follows: 31

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

(B) The attorney general may accept grants, gifts, or 39
donations for purposes of the program. Money received under this 40
division or section 3793.22 or 4729.69 of the Revised Code shall 41
be deposited into the state treasury to the credit of the drug 42
take-back program fund, which is hereby created. Money credited to 43
the fund shall be used solely for purposes of the program. 44

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

surgery, osteopathic medicine or surgery, or podiatric medicine or 51
surgery who prescribed the drug to the decedent. 52

Sec. 3719.08. (A) Whenever a manufacturer sells a controlled 53
substance, and whenever a wholesaler sells a controlled substance 54
in a package the wholesaler has prepared, the manufacturer or 55
wholesaler shall securely affix to each package in which the 56
controlled substance is contained a label showing in legible 57
English the name and address of the vendor and the quantity, kind, 58
and form of controlled substance contained therein. No person, 59
except a pharmacist for the purpose of dispensing a controlled 60
substance upon a prescription shall alter, deface, or remove any 61
label so affixed. 62

(B) Except as provided in division (C) of this section, when 63
a pharmacist dispenses any controlled substance on a prescription 64
for use by a patient, or supplies a controlled substance to a 65
licensed health professional authorized to prescribe drugs for use 66
by the professional in personally furnishing patients with 67
controlled substances, the pharmacist shall affix to the container 68
in which the controlled substance is dispensed or supplied a label 69
showing the following: 70

(1) The name and address of the pharmacy dispensing or 71
supplying the controlled substance; 72

(2) The name of the patient for whom the controlled substance 73
is prescribed and, if the patient is an animal, the name of the 74
owner and the species of the animal; 75

(3) The name of the prescriber; 76

(4) All directions for use stated on the prescription or 77
provided by the prescriber; 78

(5) The date on which the controlled substance was dispensed 79
or supplied; 80

(6) The name, quantity, and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer. 81
82
83

(C) The requirements of division (B) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized. 84
85
86

(D) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division ~~(B)~~(A) of section ~~4729.29~~ 4729.291 of the Revised Code with respect to labeling and packaging of the controlled substance. 87
88
89
90
91

(E) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain. 92
93
94

(F) Every label for a schedule II, III, or IV controlled substance shall contain the following warning: 95
96

"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed." 97
98

Sec. 3793.22. (A) The director of alcohol and drug addiction services shall collaborate with the state board of pharmacy and attorney general in the establishment and administration of a drug take-back program, as provided under section 4729.69 of the Revised Code. 99
100
101
102
103

(B) The department 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. 104
105
106
107

Sec. 4121.50. Not later than July 1, 2012, the administrator of workers' compensation shall adopt rules in accordance with 108
109

Chapter 119. of the Revised Code to implement a coordinated 110
services program for claimants under this chapter or Chapter 111
4123., 4127., or 4131. of the Revised Code who are found to have 112
obtained prescription drugs that were reimbursed pursuant to an 113
order of the administrator or of the industrial commission or by a 114
self-insuring employer but were obtained at a frequency or in an 115
amount that is not medically necessary. The program shall be 116
implemented in a manner that is substantially similar to the 117
coordinated services programs established for the medicaid program 118
under section 5111.085 and 5111.179 of the Revised Code. 119

Sec. 4715.30. (A) An applicant for or holder of a certificate 120
or license issued under this chapter is subject to disciplinary 121
action by the state dental board for any of the following reasons: 122

(1) Employing or cooperating in fraud or material deception 124
in applying for or obtaining a license or certificate; 125

(2) Obtaining or attempting to obtain money or anything of 126
value by intentional misrepresentation or material deception in 127
the course of practice; 128

(3) Advertising services in a false or misleading manner or 129
violating the board's rules governing time, place, and manner of 130
advertising; 131

(4) Conviction of a misdemeanor committed in the course of 132
practice or of any felony; 133

(5) Engaging in lewd or immoral conduct in connection with 134
the provision of dental services; 135

(6) Selling, prescribing, giving away, or administering drugs 136
for other than legal and legitimate therapeutic purposes, or 137
conviction of violating any law of this state or the federal 138
government regulating the possession, distribution, or use of any 139

drug;	140
(7) Providing or allowing dental hygienists, expanded	141
function dental auxiliaries, or other practitioners of auxiliary	142
dental occupations working under the certificate or license	143
holder's supervision, or a dentist holding a temporary limited	144
continuing education license under division (C) of section 4715.16	145
of the Revised Code working under the certificate or license	146
holder's direct supervision, to provide dental care that departs	147
from or fails to conform to accepted standards for the profession,	148
whether or not injury to a patient results;	149
(8) Inability to practice under accepted standards of the	150
profession because of physical or mental disability, dependence on	151
alcohol or other drugs, or excessive use of alcohol or other	152
drugs;	153
(9) Violation of any provision of this chapter or any rule	154
adopted thereunder;	155
(10) Failure to use universal blood and body fluid	156
precautions established by rules adopted under section 4715.03 of	157
the Revised Code;	158
(11) Waiving the payment of all or any part of a deductible	159
or copayment that a patient, pursuant to a health insurance or	160
health care policy, contract, or plan that covers dental services,	161
would otherwise be required to pay if the waiver is used as an	162
enticement to a patient or group of patients to receive health	163
care services from that provider- <i>i</i>	164
(12) Advertising that the certificate or license holder will	165
waive the payment of all or any part of a deductible or copayment	166
that a patient, pursuant to a health insurance or health care	167
policy, contract, or plan that covers dental services, would	168
otherwise be required to pay <i>i</i>	169
<u>(13) Failure to comply with section 4729.79 of the Revised</u>	170

Code, unless the state board of pharmacy no longer maintains a 171
drug database pursuant to section 4729.75 of the Revised Code. 172

(B) A manager, proprietor, operator, or conductor of a dental 173
facility shall be subject to disciplinary action if any dentist, 174
dental hygienist, expanded function dental auxiliary, or qualified 175
personnel providing services in the facility is found to have 176
committed a violation listed in division (A) of this section and 177
the manager, proprietor, operator, or conductor knew of the 178
violation and permitted it to occur on a recurring basis. 179

(C) Subject to Chapter 119. of the Revised Code, the board 180
may take one or more of the following disciplinary actions if one 181
or more of the grounds for discipline listed in divisions (A) and 182
(B) of this section exist: 183

(1) Censure the license or certificate holder; 184

(2) Place the license or certificate on probationary status 185
for such period of time the board determines necessary and require 186
the holder to: 187

(a) Report regularly to the board upon the matters which are 188
the basis of probation; 189

(b) Limit practice to those areas specified by the board; 190

(c) Continue or renew professional education until a 191
satisfactory degree of knowledge or clinical competency has been 192
attained in specified areas. 193

(3) Suspend the certificate or license; 194

(4) Revoke the certificate or license. 195

Where the board places a holder of a license or certificate 196
on probationary status pursuant to division (C)(2) of this 197
section, the board may subsequently suspend or revoke the license 198
or certificate if it determines that the holder has not met the 199
requirements of the probation or continues to engage in activities 200

that constitute grounds for discipline pursuant to division (A) or 201
(B) of this section. 202

Any order suspending a license or certificate shall state the 203
conditions under which the license or certificate will be 204
restored, which may include a conditional restoration during which 205
time the holder is in a probationary status pursuant to division 206
(C)(2) of this section. The board shall restore the license or 207
certificate unconditionally when such conditions are met. 208

(D) If the physical or mental condition of an applicant or a 209
license or certificate holder is at issue in a disciplinary 210
proceeding, the board may order the license or certificate holder 211
to submit to reasonable examinations by an individual designated 212
or approved by the board and at the board's expense. The physical 213
examination may be conducted by any individual authorized by the 214
Revised Code to do so, including a physician assistant, a clinical 215
nurse specialist, a certified nurse practitioner, or a certified 216
nurse-midwife. Any written documentation of the physical 217
examination shall be completed by the individual who conducted the 218
examination. 219

Failure to comply with an order for an examination shall be 220
grounds for refusal of a license or certificate or summary 221
suspension of a license or certificate under division (E) of this 222
section. 223

(E) If the board has reason to believe that a license or 224
certificate holder represents a clear and immediate danger to the 225
public health and safety if the holder is allowed to continue to 226
practice, or if the holder has failed to comply with an order 227
under division (D) of this section, the board may apply to the 228
court of common pleas of the county in which the holder resides 229
for an order temporarily suspending the holder's license or 230
certificate, without a prior hearing being afforded by the board, 231
until the board conducts an adjudication hearing pursuant to 232

Chapter 119. of the Revised Code. If the court temporarily 233
suspends a holder's license or certificate, the board shall give 234
written notice of the suspension personally or by certified mail 235
to the license or certificate holder. Such notice shall include 236
specific facts and reasons for finding a clear and immediate 237
danger to the public health and safety and shall inform the 238
license or certificate holder of the right to a hearing pursuant 239
to Chapter 119. of the Revised Code. 240

(F) Any holder of a certificate or license issued under this 241
chapter who has pleaded guilty to, has been convicted of, or has 242
had a judicial finding of eligibility for intervention in lieu of 243
conviction entered against the holder in this state for aggravated 244
murder, murder, voluntary manslaughter, felonious assault, 245
kidnapping, rape, sexual battery, gross sexual imposition, 246
aggravated arson, aggravated robbery, or aggravated burglary, or 247
who has pleaded guilty to, has been convicted of, or has had a 248
judicial finding of eligibility for treatment or intervention in 249
lieu of conviction entered against the holder in another 250
jurisdiction for any substantially equivalent criminal offense, is 251
automatically suspended from practice under this chapter in this 252
state and any certificate or license issued to the holder under 253
this chapter is automatically suspended, as of the date of the 254
guilty plea, conviction, or judicial finding, whether the 255
proceedings are brought in this state or another jurisdiction. 256
Continued practice by an individual after the suspension of the 257
individual's certificate or license under this division shall be 258
considered practicing without a certificate or license. The board 259
shall notify the suspended individual of the suspension of the 260
individual's certificate or license under this division by 261
certified mail or in person in accordance with section 119.07 of 262
the Revised Code. If an individual whose certificate or license is 263
suspended under this division fails to make a timely request for 264
an adjudicatory hearing, the board shall enter a final order 265

revoking the individual's certificate or license. 266

(G) Notwithstanding divisions (A)(11) and (12) of this 267
section, sanctions shall not be imposed against any licensee who 268
waives deductibles and copayments: 269

(1) In compliance with the health benefit plan that expressly 270
allows such a practice. Waiver of the deductibles or copayments 271
shall be made only with the full knowledge and consent of the plan 272
purchaser, payer, and third-party administrator. Such consent 273
shall be made available to the board upon request. 274

(2) For professional services rendered to any other person 275
licensed pursuant to this chapter to the extent allowed by this 276
chapter and the rules of the board. 277

(H) In no event shall the board consider or raise during a 278
hearing required by Chapter 119. of the Revised Code the 279
circumstances of, or the fact that the board has received, one or 280
more complaints about a person unless the one or more complaints 281
are the subject of the hearing or resulted in the board taking an 282
action authorized by this section against the person on a prior 283
occasion. 284

Sec. 4715.302. (A) As used in this section, "drug database" 285
means the database established and maintained by the state board 286
of pharmacy pursuant to section 4729.75 of the Revised Code. 287

(B) The state dental board shall adopt rules in accordance 288
with Chapter 119. of the Revised Code that establish standards and 289
procedures to be followed by a dentist regarding the review of 290
patient information available through the drug database. 291

(C) This section and the rules adopted under it do not apply 292
if the state board of pharmacy no longer maintains the drug 293
database. 294

Sec. 4723.487. (A) As used in this section, "drug database" 295
means the database established and maintained by the state board 296
of pharmacy pursuant to section 4729.75 of the Revised Code. 297

(B) The board of nursing shall adopt rules in accordance with 298
Chapter 119. of the Revised Code that establish standards and 299
procedures to be followed by an advanced practice nurse with a 300
certificate to prescribe issued under section 4723.48 of the 301
Revised Code regarding the review of patient information available 302
through the drug database. 303

(C) This section and the rules adopted under it do not apply 304
if the state board of pharmacy no longer maintains the drug 305
database. 306

Sec. 4725.092. (A) As used in this section, "drug database" 307
means the database established and maintained by the state board 308
of pharmacy pursuant to section 4729.75 of the Revised Code. 309

(B) The state board of optometry shall adopt rules in 310
accordance with Chapter 119. of the Revised Code that establish 311
standards and procedures to be followed by an optometrist who 312
holds a therapeutic pharmaceutical agents certificate regarding 313
the review of patient information available through the drug 314
database. 315

(C) This section and the rules adopted under it do not apply 316
if the state board of pharmacy no longer maintains the drug 317
database. 318

Sec. 4729.01. As used in this chapter: 319

(A) "Pharmacy," except when used in a context that refers to 320
the practice of pharmacy, means any area, room, rooms, place of 321
business, department, or portion of any of the foregoing where the 322
practice of pharmacy is conducted. 323

(B) "Practice of pharmacy" means providing pharmacist care	324
requiring specialized knowledge, judgment, and skill derived from	325
the principles of biological, chemical, behavioral, social,	326
pharmaceutical, and clinical sciences. As used in this division,	327
"pharmacist care" includes the following:	328
(1) Interpreting prescriptions;	329
(2) Dispensing drugs and drug therapy related devices;	330
(3) Compounding drugs;	331
(4) Counseling individuals with regard to their drug therapy,	332
recommending drug therapy related devices, and assisting in the	333
selection of drugs and appliances for treatment of common diseases	334
and injuries and providing instruction in the proper use of the	335
drugs and appliances;	336
(5) Performing drug regimen reviews with individuals by	337
discussing all of the drugs that the individual is taking and	338
explaining the interactions of the drugs;	339
(6) Performing drug utilization reviews with licensed health	340
professionals authorized to prescribe drugs when the pharmacist	341
determines that an individual with a prescription has a drug	342
regimen that warrants additional discussion with the prescriber;	343
(7) Advising an individual and the health care professionals	344
treating an individual with regard to the individual's drug	345
therapy;	346
(8) Acting pursuant to a consult agreement with a physician	347
authorized under Chapter 4731. of the Revised Code to practice	348
medicine and surgery or osteopathic medicine and surgery, if an	349
agreement has been established with the physician;	350
(9) Engaging in the administration of immunizations to the	351
extent authorized by section 4729.41 of the Revised Code.	352
(C) "Compounding" means the preparation, mixing, assembling,	353

packaging, and labeling of one or more drugs in any of the	354
following circumstances:	355
(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;	356 357
(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;	358 359
(3) As an incident to research, teaching activities, or chemical analysis;	360 361
(4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;	362 363 364
(5) Pursuant to a request made by a licensed health professional authorized to prescribe drugs for a drug that is to be used by the professional for the purpose of direct administration to patients in the course of the professional's practice, if all of the following apply:	365 366 367 368 369
(a) At the time the request is made, the drug is not commercially available regardless of the reason that the drug is not available, including the absence of a manufacturer for the drug or the lack of a readily available supply of the drug from a manufacturer.	370 371 372 373 374
(b) A limited quantity of the drug is compounded and provided to the professional.	375 376
(c) The drug is compounded and provided to the professional as an occasional exception to the normal practice of dispensing drugs pursuant to patient-specific prescriptions.	377 378 379
(D) "Consult agreement" means an agreement to manage an individual's drug therapy that has been entered into by a pharmacist and a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic	380 381 382 383

medicine and surgery.	384
(E) "Drug" means:	385
(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;	386 387 388 389
(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	390 391 392
(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	393 394
(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.	395 396 397 398
(F) "Dangerous drug" means any of the following:	399
(1) Any drug to which either of the following applies:	400
(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;	401 402 403 404 405 406 407
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	408 409
(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;	410 411 412
(3) Any drug intended for administration by injection into	413

the human body other than through a natural orifice of the human body. 414
415

(G) "Federal drug abuse control laws" has the same meaning as 416
in section 3719.01 of the Revised Code. 417

(H) "Prescription" means a written, electronic, or oral order 418
for drugs or combinations or mixtures of drugs to be used by a 419
particular individual or for treating a particular animal, issued 420
by a licensed health professional authorized to prescribe drugs. 421

(I) "Licensed health professional authorized to prescribe 422
drugs" or "prescriber" means an individual who is authorized by 423
law to prescribe drugs or dangerous drugs or drug therapy related 424
devices in the course of the individual's professional practice, 425
including only the following: 426

(1) A dentist licensed under Chapter 4715. of the Revised 427
Code; 428

(2) A clinical nurse specialist, certified nurse-midwife, or 429
certified nurse practitioner who holds a certificate to prescribe 430
issued under section 4723.48 of the Revised Code; 431

(3) An optometrist licensed under Chapter 4725. of the 432
Revised Code to practice optometry under a therapeutic 433
pharmaceutical agents certificate; 434

(4) A physician authorized under Chapter 4731. of the Revised 435
Code to practice medicine and surgery, osteopathic medicine and 436
surgery, or ~~pediatry~~ podiatric medicine and surgery; 437

(5) A physician assistant who holds a certificate to 438
prescribe issued under Chapter 4730. of the Revised Code; 439

(6) A veterinarian licensed under Chapter 4741. of the 440
Revised Code. 441

(J) "Sale" and "sell" include delivery, transfer, barter, 442
exchange, or gift, or offer therefor, and each such transaction 443

made by any person, whether as principal proprietor, agent, or 444
employee. 445

(K) "Wholesale sale" and "sale at wholesale" mean any sale in 446
which the purpose of the purchaser is to resell the article 447
purchased or received by the purchaser. 448

(L) "Retail sale" and "sale at retail" mean any sale other 449
than a wholesale sale or sale at wholesale. 450

(M) "Retail seller" means any person that sells any dangerous 451
drug to consumers without assuming control over and responsibility 452
for its administration. Mere advice or instructions regarding 453
administration do not constitute control or establish 454
responsibility. 455

(N) "Price information" means the price charged for a 456
prescription for a particular drug product and, in an easily 457
understandable manner, all of the following: 458

(1) The proprietary name of the drug product; 459

(2) The established (generic) name of the drug product; 460

(3) The strength of the drug product if the product contains 461
a single active ingredient or if the drug product contains more 462
than one active ingredient and a relevant strength can be 463
associated with the product without indicating each active 464
ingredient. The established name and quantity of each active 465
ingredient are required if such a relevant strength cannot be so 466
associated with a drug product containing more than one 467
ingredient. 468

(4) The dosage form; 469

(5) The price charged for a specific quantity of the drug 470
product. The stated price shall include all charges to the 471
consumer, including, but not limited to, the cost of the drug 472
product, professional fees, handling fees, if any, and a statement 473

identifying professional services routinely furnished by the 474
pharmacy. Any mailing fees and delivery fees may be stated 475
separately without repetition. The information shall not be false 476
or misleading. 477

(O) "Wholesale distributor of dangerous drugs" means a person 478
engaged in the sale of dangerous drugs at wholesale and includes 479
any agent or employee of such a person authorized by the person to 480
engage in the sale of dangerous drugs at wholesale. 481

(P) "Manufacturer of dangerous drugs" means a person, other 482
than a pharmacist, who manufactures dangerous drugs and who is 483
engaged in the sale of those dangerous drugs within this state. 484

(Q) "Terminal distributor of dangerous drugs" means a person 485
who is engaged in the sale of dangerous drugs at retail, or any 486
person, other than a wholesale distributor or a pharmacist, who 487
has possession, custody, or control of dangerous drugs for any 488
purpose other than for that person's own use and consumption, and 489
includes pharmacies, hospitals, nursing homes, and laboratories 490
and all other persons who procure dangerous drugs for sale or 491
other distribution by or under the supervision of a pharmacist or 492
licensed health professional authorized to prescribe drugs. 493

(R) "Promote to the public" means disseminating a 494
representation to the public in any manner or by any means, other 495
than by labeling, for the purpose of inducing, or that is likely 496
to induce, directly or indirectly, the purchase of a dangerous 497
drug at retail. 498

(S) "Person" includes any individual, partnership, 499
association, limited liability company, or corporation, the state, 500
any political subdivision of the state, and any district, 501
department, or agency of the state or its political subdivisions. 502

(T) "Finished dosage form" has the same meaning as in section 503
3715.01 of the Revised Code. 504

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

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

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

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

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.

(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.

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.

(B) The state board of pharmacy shall adopt rules in accordance with Chapter 119. of the Revised Code that establish

standards and procedures to be followed by a pharmacist regarding 535
the review of patient information available through the drug 536
database. 537

(C) This section and the rules adopted under it do not apply 538
if the board no longer maintains the drug database. 539

Sec. 4729.29. ~~(A)~~ Divisions (A) and (B) of section 4729.01 540
and section 4729.28 of the Revised Code do not do ~~either~~ any of 541
the following: 542

~~(1)~~(A) Apply to a licensed health professional authorized to 543
prescribe drugs ~~or prevent~~ who is acting within the prescriber's 544
scope of professional practice; 545

(B) Prevent a prescriber from personally furnishing the 546
prescriber's patients with drugs, within the prescriber's scope of 547
professional practice, that seem proper to the prescriber-, as 548
long as the drugs are furnished in accordance with section 549
4729.291 of the Revised Code; 550

~~(2)~~(C) Apply to the sale of oxygen, peritoneal dialysis 551
solutions, or the sale of drugs that are not dangerous drugs by a 552
retail dealer, in original packages when labeled as required by 553
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 554
21 U.S.C.A. 301, as amended. 555

~~(B) When a prescriber personally furnishes drugs to a patient~~ 556
~~pursuant to division (A)(1) of this section, the prescriber shall~~ 557
~~ensure that the drugs are labeled and packaged in accordance with~~ 558
~~state and federal drug laws and any rules and regulations adopted~~ 559
~~pursuant to those laws. Records of purchase and disposition of all~~ 560
~~drugs personally furnished to patients shall be maintained by the~~ 561
~~prescriber in accordance with state and federal drug statutes and~~ 562
~~any rules adopted pursuant to those statutes.~~ 563

~~When personally furnishing to a patient RU 486~~ 564

~~(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>	595
<u>(b) The amount of any methadone personally furnished to a patient by a prescriber for the purpose of treating drug addiction.</u>	596 597 598
<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>	599 600 601 602 603 604 605
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:	606 607 608 609
(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;	610 611 612 613
(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.	614 615 616 617 618 619 620
(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:	621 622 623
(a) A <u>Except as provided in division (B)(3) of this section,</u>	624

a licensed health professional authorized to prescribe drugs;	625
(b) An optometrist licensed under Chapter 4725. of the Revised Code who holds a topical ocular pharmaceutical agents certificate;	626 627 628
(c) A registered wholesale distributor of dangerous drugs;	629
(d) A manufacturer of dangerous drugs;	630
(e) A Subject to division (B)(3) of this section, a licensed terminal distributor of dangerous drugs, subject to division (B)(2) of this section;	631 632 633
(f) Carriers or warehouseurs for the purpose of carriage or storage;	634 635
(g) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state;	636 637
(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;	638 639 640 641 642 643 644 645 646
(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;	647 648 649 650 651
(j) A <u>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	652 653 654

company formed under Chapter 1705. of the Revised Code, or a 655
professional association formed under Chapter 1785. of the Revised 656
Code if the entity has a sole shareholder who is a licensed health 657
professional authorized to prescribe drugs and is authorized to 658
provide the professional services being offered by the entity; 659

(k) A Except as provided in division (B)(2) of this section, 660
a business entity that is a corporation formed under division (B) 661
of section 1701.03 of the Revised Code, a limited liability 662
company formed under Chapter 1705. of the Revised Code, a 663
partnership or a limited liability partnership formed under 664
Chapter 1775. of the Revised Code, or a professional association 665
formed under Chapter 1785. of the Revised Code, if, to be a 666
shareholder, member, or partner, an individual is required to be 667
licensed, certified, or otherwise legally authorized under Title 668
XLVII of the Revised Code to perform the professional service 669
provided by the entity and each such individual is a licensed 670
health professional authorized to prescribe drugs. 671

(2) No registered wholesaler of dangerous drugs shall possess 672
for sale, or sell, at wholesale, dangerous drugs to any of the 673
following: 674

(a) A prescriber who is employed by a pain management clinic 675
that is not licensed as a terminal distributor of dangerous drugs 676
with a pain management clinic classification issued under section 677
4729.552 of the Revised Code; 678

(b) A business entity described in division (B)(1)(j) of this 679
section that is, or is operating, a pain management clinic without 680
a license as a terminal distributor of dangerous drugs with a pain 681
management clinic classification issued under section 4729.552 of 682
the Revised Code; 683

(c) A business entity described in division (B)(1)(k) of this 684
section that is, or is operating, a pain management clinic without 685

a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code. 686
687
688

(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: 689
690
691
692

(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; 693
694
695
696

(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; 697
698
699
700

(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; 701
702
703
704

(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. 705
706
707
708

(C)(1) Except as provided in division (C)(4) of this section, no person shall sell, at retail, dangerous drugs. 709
710

(2) Except as provided in division (C)(4) of this section, no person shall possess for sale, at retail, dangerous drugs. 711
712

(3) Except as provided in division (C)(4) of this section, no person shall possess dangerous drugs. 713
714

(4) Divisions (C)(1), (2), and (3) of this section do not 715

apply to a registered wholesale distributor of dangerous drugs, a 716
licensed terminal distributor of dangerous drugs, or a person who 717
possesses, or possesses for sale or sells, at retail, a dangerous 718
drug in accordance with Chapters 3719., 4715., 4723., 4725., 719
4729., 4730., 4731., and 4741. of the Revised Code. 720

Divisions (C)(1), (2), and (3) of this section do not apply 721
to an individual who holds a current license, certificate, or 722
registration issued under Title XLVII of the Revised Code and has 723
been certified to conduct diabetes education by a national 724
certifying body specified in rules adopted by the state board of 725
pharmacy under section 4729.68 of the Revised Code, but only to 726
the extent that the individual possesses insulin or personally 727
supplies insulin solely for the purpose of diabetes education and 728
only if diabetes education is within the individual's scope of 729
practice under statutes and rules regulating the individual's 730
profession. 731

Divisions (C)(1), (2), and (3) of this section do not apply 732
to an individual who holds a valid certificate issued by a 733
nationally recognized S.C.U.B.A. diving certifying organization 734
approved by the state board of pharmacy ~~board~~ in rule, but only to 735
the extent that the individual possesses medical oxygen or 736
personally supplies medical oxygen for the purpose of emergency 737
care or treatment at the scene of a diving emergency. 738

(D) No licensed terminal distributor of dangerous drugs shall 739
purchase for the purpose of resale dangerous drugs from any person 740
other than a registered wholesale distributor of dangerous drugs, 741
except as follows: 742

(1) A licensed terminal distributor of dangerous drugs may 743
make occasional purchases of dangerous drugs for resale from a 744
pharmacist who is a licensed terminal distributor of dangerous 745
drugs or who is employed by a licensed terminal distributor of 746
dangerous drugs; 747

(2) A licensed terminal distributor of dangerous drugs having 748
more than one establishment or place may transfer or receive 749
dangerous drugs from one establishment or place for which a 750
license has been issued to the terminal distributor to another 751
establishment or place for which a license has been issued to the 752
terminal distributor if the license issued for each establishment 753
or place is in effect at the time of the transfer or receipt. 754

(E) No licensed terminal distributor of dangerous drugs shall 755
engage in the sale or other distribution of dangerous drugs at 756
retail or maintain possession, custody, or control of dangerous 757
drugs for any purpose other than the distributor's personal use or 758
consumption, at any establishment or place other than that or 759
those described in the license issued by the state board of 760
pharmacy to such terminal distributor. 761

(F) Nothing in this section shall be construed to interfere 762
with the performance of official duties by any law enforcement 763
official authorized by municipal, county, state, or federal law to 764
collect samples of any drug, regardless of its nature or in whose 765
possession it may be. 766

Sec. 4729.54. (A) As used in this section and section 767
4729.541 of the Revised Code: 768

(1) "Category I" means single-dose injections of intravenous 769
fluids, including saline, Ringer's lactate, five per cent dextrose 770
and distilled water, and other intravenous fluids or parenteral 771
solutions included in this category by rule of the state board of 772
pharmacy, that have a volume of one hundred milliliters or more 773
and that contain no added substances, or single-dose injections of 774
epinephrine to be administered pursuant to sections 4765.38 and 775
4765.39 of the Revised Code. 776

(2) "Category II" means any dangerous drug that is not 777
included in category I or III. 778

(3) "Category III" means any controlled substance that is 779
contained in schedule I, II, III, IV, or V. 780

(4) "Emergency medical service organization" has the same 781
meaning as in section 4765.01 of the Revised Code. 782

(5) "Person" includes an emergency medical service 783
organization. 784

(6) "Schedule I, schedule II, schedule III, schedule IV, and 785
schedule V" mean controlled substance schedules I, II, III, IV, 786
and V, respectively, as established pursuant to section 3719.41 of 787
the Revised Code and as amended. 788

(B)(1) A person who desires to be licensed as a terminal 789
distributor of dangerous drugs shall file with the executive 790
director of the state board of pharmacy a verified application 791
that contains. After it is filed, the application may not be 792
withdrawn without approval of the board. 793

(2) An application shall contain all the following that apply 794
in the applicant's case: 795

~~(1)~~(a) Information that the board requires relative to the 796
qualifications of a terminal distributor of dangerous drugs set 797
forth in section 4729.55 of the Revised Code; 798

~~(2)~~(b) A statement that the person wishes to be licensed as a 799
category I, category II, category III, limited category I, limited 800
category II, or limited category III terminal distributor of 801
dangerous drugs; 802

~~(3)~~(c) If the person wishes to be licensed as a limited 803
category I, limited category II, or limited category III terminal 804
distributor of dangerous drugs, a notarized list of the dangerous 805
drugs that the person wishes to possess, have custody or control 806
of, and distribute, which list shall also specify the purpose for 807
which those drugs will be used and their source; 808

~~(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 840
organization or, on a replacement basis, from a hospital pharmacy. 841
If units will obtain dangerous drugs from a hospital pharmacy, the 842
organization shall file, and maintain in current form, the 843
following items with the pharmacist who is responsible for the 844
hospital's terminal distributor of dangerous drugs license: 845

(a) A copy of its standing orders or protocol; 846

(b) A list of the personnel employed or used by the 847
organization to provide emergency medical services in accordance 848
with Chapter 4765. of the Revised Code, who are authorized to 849
possess the drugs, which list also shall indicate the personnel 850
who are authorized to administer the drugs. 851

(D) Each emergency medical service organization that applies 852
for a terminal distributor of dangerous drugs license shall submit 853
with its application the following: 854

(1) A notarized copy of its standing orders or protocol, 855
which orders or protocol shall be signed by a physician and 856
specify the dangerous drugs that its units may carry, expressed in 857
standard dose units; 858

(2) A list of the personnel employed or used by the 859
organization to provide emergency medical services in accordance 860
with Chapter 4765. of the Revised Code. 861

An emergency medical service organization that is licensed as 862
a terminal distributor shall notify the board immediately of any 863
changes in its standing orders or protocol. 864

(E) There shall be six categories of terminal distributor of 865
dangerous drugs licenses, which categories shall be as follows: 866

(1) Category I license. A person who obtains this license may 867
possess, have custody or control of, and distribute only the 868
dangerous drugs described in category I. 869

(2) Limited category I license. A person who obtains this 870
license may possess, have custody or control of, and distribute 871
only the dangerous drugs described in category I that were listed 872
in the application for licensure. 873

(3) Category II license. A person who obtains this license 874
may possess, have custody or control of, and distribute only the 875
dangerous drugs described in category I and category II. 876

(4) Limited category II license. A person who obtains this 877
license may possess, have custody or control of, and distribute 878
only the dangerous drugs described in category I or category II 879
that were listed in the application for licensure. 880

(5) Category III license, which may include a pain management 881
clinic classification issued under section 4729.552 of the Revised 882
Code. A person who obtains this license may possess, have custody 883
or control of, and distribute the dangerous drugs described in 884
category I, category II, and category III. If the license includes 885
a pain management clinic classification, the person may operate a 886
pain management clinic. 887

(6) Limited category III license. A person who obtains this 888
license may possess, have custody or control of, and distribute 889
only the dangerous drugs described in category I, category II, or 890
category III that were listed in the application for licensure. 891

(F) Except for an application made on behalf of an animal 892
shelter, if an applicant for licensure as a limited category I, 893
II, or III terminal distributor of dangerous drugs intends to 894
administer dangerous drugs to a person or animal, the applicant 895
shall submit, with the application, a notarized copy of its 896
protocol or standing orders, which protocol or orders shall be 897
signed by a licensed health professional authorized to prescribe 898
drugs, specify the dangerous drugs to be administered, and list 899
personnel who are authorized to administer the dangerous drugs in 900

accordance with federal law or the law of this state. An 901
application made on behalf of an animal shelter shall include a 902
notarized list of the dangerous drugs to be administered to 903
animals and the personnel who are authorized to administer the 904
drugs to animals in accordance with section 4729.532 of the 905
Revised Code. After obtaining a terminal distributor license, a 906
licensee shall notify the board immediately of any changes in its 907
protocol or standing orders, or in such personnel. 908

(G)(1) Except as provided in division (G)(2) of this section, 909
each applicant for licensure as a terminal distributor of 910
dangerous drugs shall submit, with the application, a license fee 911
determined as follows: 912

(a) For a category I or limited category I license, 913
forty-five dollars; 914

(b) For a category II or limited category II license, one 915
hundred twelve dollars and fifty cents; 916

(c) For a category III license, including a license with a 917
pain management clinic classification issued under section 918
4729.552 of the Revised Code, or a limited category III license, 919
one hundred fifty dollars. 920

(2) For a professional association, corporation, partnership, 921
or limited liability company organized for the purpose of 922
practicing veterinary medicine, the fee shall be forty dollars. 923

(3) Fees assessed under divisions (G)(1) and (2) of this 924
section shall not be returned if the applicant fails to qualify 925
for registration. 926

(H)(1) The board shall issue a terminal distributor of 927
dangerous drugs license to each person who submits an application 928
for such licensure in accordance with this section, pays the 929
required license fee, is determined by the board to meet the 930
requirements set forth in section 4729.55 of the Revised Code, and 931

satisfies any other applicable requirements of this section. 932

(2) The license of a person other than an emergency medical 933
service organization shall describe the one establishment or place 934
at which the licensee may engage in the sale or other distribution 935
of dangerous drugs at retail and maintain possession, custody, or 936
control of dangerous drugs for purposes other than the licensee's 937
own use or consumption. The one establishment or place shall be 938
that which is described in the application for licensure. 939

No such license shall authorize or permit the terminal 940
distributor of dangerous drugs named in it to engage in the sale 941
or other distribution of dangerous drugs at retail or to maintain 942
possession, custody, or control of dangerous drugs for any purpose 943
other than the distributor's own use or consumption, at any 944
establishment or place other than that described in the license, 945
except that an agent or employee of an animal shelter may possess 946
and use dangerous drugs in the course of business as provided in 947
division (D) of section 4729.532 of the Revised Code. 948

(3) The license of an emergency medical service organization 949
shall cover and describe all the units of the organization listed 950
in its application for licensure. 951

(4) The license of every terminal distributor of dangerous 952
drugs shall indicate, on its face, the category of licensure. If 953
the license is a limited category I, II, or III license, it shall 954
specify, and shall authorize the licensee to possess, have custody 955
or control of, and distribute only, the dangerous drugs that were 956
listed in the application for licensure. 957

(I) All licenses issued pursuant to this section shall be 958
effective for a period of twelve months from the first day of 959
January of each year. A license shall be renewed by the board for 960
a like period, annually, according to the provisions of this 961
section, and the standard renewal procedure of Chapter 4745. of 962

the Revised Code. A person who desires to renew a license shall 963
submit an application for renewal and pay the required fee on or 964
before the thirty-first day of December each year. The fee 965
required for the renewal of a license shall be the same as the fee 966
paid for the license being renewed, and shall accompany the 967
application for renewal. 968

A license that has not been renewed during December in any 969
year and by the first day of February of the following year may be 970
reinstated only upon payment of the required renewal fee and a 971
penalty fee of fifty-five dollars. 972

(J)(1) No emergency medical service organization that is 973
licensed as a terminal distributor of dangerous drugs shall fail 974
to comply with division (C)(2) or (3) of this section. 975

(2) No emergency medical service organization that is 976
licensed as a terminal distributor of dangerous drugs shall fail 977
to comply with division (D) of this section. 978

(3) No licensed terminal distributor of dangerous drugs shall 979
possess, have custody or control of, or distribute dangerous drugs 980
that the terminal distributor is not entitled to possess, have 981
custody or control of, or distribute by virtue of its category of 982
licensure. 983

(4) No licensee that is required by division (F) of this 984
section to notify the board of changes in its protocol or standing 985
orders, or in personnel, shall fail to comply with that division. 986

Sec. 4729.541. ~~A person~~ (A) Except as provided in division 987
(B) of this section, a business entity described in division 988
(B)(1)(j) or (k) of section 4729.51 of the Revised Code may 989
possess, have custody or control of, and distribute the dangerous 990
drugs in category I, category II, and category III of section 991
4729.54 of the Revised Code without holding a terminal distributor 992

of dangerous drugs license issued under that section. 993

(B) If a business entity described in division (B)(1)(j) or 994
(k) of section 4729.51 of the Revised Code is a pain management 995
clinic or is operating a pain management clinic, the entity shall 996
hold a license as a terminal distributor of dangerous drugs with a 997
pain management clinic classification issued under section 998
4729.552 of the Revised Code. 999

Sec. 4729.55. No license shall be issued to an applicant for 1000
licensure as a terminal distributor of dangerous drugs unless the 1001
applicant has furnished satisfactory proof to the state board of 1002
pharmacy that: 1003

(A) The applicant is equipped as to land, buildings, and 1004
equipment to properly carry on the business of a terminal 1005
distributor of dangerous drugs within the category of licensure 1006
approved by the board. 1007

(B) A pharmacist, licensed health professional authorized to 1008
prescribe drugs, animal shelter licensed with the state board of 1009
pharmacy under section 4729.531 of the Revised Code, or a 1010
laboratory as defined in section 3719.01 of the Revised Code will 1011
maintain supervision and control over the possession and custody 1012
of dangerous drugs that may be acquired by or on behalf of the 1013
applicant. 1014

(C) Adequate safeguards are assured to prevent the sale or 1015
other distribution of dangerous drugs by any person other than a 1016
pharmacist or licensed health professional authorized to prescribe 1017
drugs. 1018

(D) Adequate safeguards are assured that the applicant will 1019
carry on the business of a terminal distributor of dangerous drugs 1020
in a manner that allows pharmacists and pharmacy interns employed 1021
by the terminal distributor to practice pharmacy in a safe and 1022

effective manner. 1023

(E) If the applicant, or any agent or employee of the 1024
applicant, has been found guilty of violating section 4729.51 of 1025
the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 1026
Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control 1027
laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, 1028
or any rule of the board, adequate safeguards are assured to 1029
prevent the recurrence of the violation. 1030

(F) In the case of an applicant who is a food processor or 1031
retail seller of food, the applicant will maintain supervision and 1032
control over the possession and custody of nitrous oxide. 1033

(G) In the case of an applicant who is a retail seller of 1034
oxygen in original packages labeled as required by the "Federal 1035
Food, Drug, and Cosmetic Act," the applicant will maintain 1036
supervision and control over the possession, custody, and retail 1037
sale of the oxygen. 1038

(H) If the application is made on behalf of an animal 1039
shelter, at least one of the agents or employees of the animal 1040
shelter is certified in compliance with section 4729.532 of the 1041
Revised Code. 1042

(I) In the case of an applicant who is a retail seller of 1043
peritoneal dialysis solutions in original packages labeled as 1044
required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1045
1040 (1938), 21 U.S.C.A. 301, the applicant will maintain 1046
supervision and control over the possession, custody, and retail 1047
sale of the peritoneal dialysis solutions. 1048

(J) In the case of an applicant who is a pain management 1049
clinic, the applicant meets the requirements to receive a license 1050
with a pain management clinic classification issued under section 1051
4729.552 of the Revised Code. 1052

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 1083
previously been convicted of, or pleaded guilty to, any felony in 1084
this state, another state, or the United States; 1085

(5) Maintain a list of each person with ownership of the 1086
facility and notify the state board of pharmacy of any change to 1087
that list. 1088

(C) No person shall operate a facility that under this 1089
chapter is subject to licensure as a category III terminal 1090
distributor of dangerous drugs with a pain management clinic 1091
classification without obtaining and maintaining the license with 1092
the classification. 1093

No person who holds a category III license with a pain 1094
management clinic classification shall fail to remain in 1095
compliance with the requirements of division (A) of this section 1096
and any other applicable requirements under this chapter or 1097
Chapter 3719. of the Revised Code. 1098

(D) The board may impose a fine of not more than five 1099
thousand dollars on a terminal distributor of dangerous drugs 1100
license holder who violates division (C) of this section. A 1101
separate fine may be imposed for each day the violation continues. 1102
In imposing the fine, the board's actions shall be taken in 1103
accordance with Chapter 119. of the Revised Code. 1104

Sec. 4729.561. If the state board of pharmacy determines that 1105
there is clear and convincing evidence that the method used by a 1106
wholesale distributor of dangerous drugs to distribute controlled 1107
substances presents a danger of immediate and serious harm to 1108
others, the board may suspend the wholesale distributor's 1109
registration certificate without a hearing. The board shall follow 1110
the procedure for suspension without a prior hearing in section 1111
119.07 of the Revised Code. The suspension shall remain in effect, 1112
unless removed by the board, until the board's final adjudication 1113

order becomes effective, except that if the board does not issue 1114
its final adjudication order within ninety days after the hearing, 1115
the suspension shall be void on the ninety-first day after the 1116
suspension. 1117

Sec. 4729.571. If the state board of pharmacy determines that 1118
there is clear and convincing evidence that the method used by a 1119
terminal distributor of dangerous drugs to distribute controlled 1120
substances presents a danger of immediate and serious harm to 1121
others, the board may suspend the terminal distributor's license 1122
without a hearing. The board shall follow the procedure for 1123
suspension without a prior hearing in section 119.07 of the 1124
Revised Code. The suspension shall remain in effect, unless 1125
removed by the board, until the board's final adjudication order 1126
becomes effective, except that if the board does not issue its 1127
final adjudication order within ninety days after the hearing, the 1128
suspension shall be void on the ninety-first day after the 1129
suspension. 1130

If the terminal distributor holds a license with a pain 1131
management clinic classification issued under section 4729.552 of 1132
the Revised Code and the person holding the license also holds a 1133
certificate issued under Chapter 4731. of the Revised Code to 1134
practice medicine and surgery or osteopathic medicine and surgery, 1135
prior to suspending the license without a hearing, the board shall 1136
consult with the secretary of the state medical board or, if the 1137
secretary is unavailable, another physician member of the board. 1138

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

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

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

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

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

(1) The entities that may participate; 1155

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

(3) Drugs that may be collected; 1158

(4) Record-keeping requirements; 1159

(5) Proper methods to destroy unused drugs; 1160

(6) Privacy protocols and security standards; 1161

(7) Drug transportation procedures; 1162

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

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

(D) In accordance with state and federal law, the board may adopt rules to allow an entity participating in the program to return any unused drugs to the pharmacy that originally dispensed the drug. The rules shall include procedures to be followed to maintain the confidentiality of the person for whom the drug was 1168
1169
1170
1171
1172

<u>dispensed.</u>	1173
<u>(E) Rules adopted under this section may not do any of the</u>	1174
<u>following:</u>	1175
<u>(1) Require any entity to establish, fund, or operate a drug</u>	1176
<u>take-back program;</u>	1177
<u>(2) Establish any new licensing requirement or fee to</u>	1178
<u>participate in the program;</u>	1179
<u>(3) Require any entity to compile data on drugs collected.</u>	1180
<u>(F) The board may compile data on the amount and type of</u>	1181
<u>drugs collected under the program. For purposes of this division,</u>	1182
<u>the board may cooperate with a public or private entity in</u>	1183
<u>obtaining assistance in the compilation of data. An entity</u>	1184
<u>providing the assistance shall not be reimbursed under the program</u>	1185
<u>for any costs incurred in providing the assistance.</u>	1186
<u>(G) If the board compiles data under division (F) of this</u>	1187
<u>section, the board shall submit a report to the governor and, in</u>	1188
<u>accordance with section 101.68 of the Revised Code, the general</u>	1189
<u>assembly. The report, to the extent possible, shall include the</u>	1190
<u>following information:</u>	1191
<u>(1) Total weight of drugs collected, both with and without</u>	1192
<u>packaging;</u>	1193
<u>(2) The weight of controlled substances;</u>	1194
<u>(3) The amount of all of the following as a per cent of total</u>	1195
<u>drugs collected:</u>	1196
<u>(a) Controlled substances;</u>	1197
<u>(b) Brand name drugs;</u>	1198
<u>(c) Generic drugs;</u>	1199
<u>(d) Prescription drugs;</u>	1200
<u>(e) Non-prescription drugs.</u>	1201

(4) The amount of vitamins, herbal supplements, and personal care products collected; 1202
1203

(5) If provided by the person who submitted or otherwise donated drugs to the program, the reasons why the drugs were returned or unused. 1204
1205
1206

(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. 1207
1208
1209
1210

(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. 1211
1212
1213
1214

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. 1215
1216
1217
1218
1219
1220
1221
1222
1223
1224
1225
1226
1227
1228

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 1229
1230
1231

dangerous drugs that dispenses drugs to patients in this state and 1232
is included in the types of pharmacies specified in rules adopted 1233
under section ~~4729.83~~ 4729.84 of the Revised Code shall submit to 1234
the board the following prescription information: 1235

(1) Terminal distributor identification; 1236

(2) Patient identification; 1237

(3) Prescriber identification; 1238

(4) Date prescription was issued by prescriber; 1239

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

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

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

(8) Quantity of drug dispensed; 1245

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

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

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

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

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

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

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

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

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

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 in this state to prescribers ~~in this state or terminal distributors of dangerous drugs~~ shall submit to the board the following purchase information:

(1) Purchaser identification;

(2) Identification of the drug sold;

(3) Quantity of the drug sold;

(4) Date of sale;

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

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

~~(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.

~~(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:

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

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

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:

(1) Prescriber identification;

(2) Patient identification;

(3) Date drug was furnished by the prescriber;

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

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

(6) Quantity of drug furnished;

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

(8) Source of payment for the drug furnished.

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

(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.

(3) The information shall be submitted in accordance with any time limits specified by the board, except that the board may grant an extension if either of the following occurs: 1317
1318
1319

(a) The prescriber's transmission system suffers a mechanical or electronic failure, or the prescriber cannot meet the deadline for other reasons beyond the prescriber's control. 1320
1321
1322

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

(C) If the board becomes aware of a prescriber's failure to comply with this section, the board shall notify the government entity responsible for licensing the prescriber. 1324
1325
1326

Sec. ~~4729.79~~ 4729.80. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board ~~may~~ is authorized or required to provide information from the database in accordance with the following: 1327
1328
1329
1330
1331

(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of ~~licensed~~ health care professionals ~~authorized with authority~~ to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity. 1332
1333
1334
1335
1336
1337
1338

(2) On receipt of a request from a federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs, the board ~~may~~ shall provide to the officer information from the database relating to the person who is the subject of an active investigation of a drug abuse offense, as defined in section 2925.01 of the Revised Code, being conducted by the officer's employing government entity. 1339
1340
1341
1342
1343
1344
1345

(3) Pursuant to a subpoena issued by a grand jury, the board 1346

~~may~~ shall provide to the grand jury information from the database 1347
relating to the person who is the subject of an investigation 1348
being conducted by the grand jury. 1349

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

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

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

(7) On receipt of a request from an individual seeking the 1368
individual's own database information in accordance with the 1369
procedure established in rules adopted under section ~~4729.83~~ 1370
~~4729.84~~ of the Revised Code, the board may provide to the 1371
individual the individual's own database information. 1372

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

enrolled in the managed care organization. 1378

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

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

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

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

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of ~~licensed~~ health care professionals authorized with authority to prescribe, administer, or dispense drugs who is involved in an active investigation being conducted by the government entity of the individual who submitted the requests for database information; 1398
1399
1400
1401
1402
1403
1404

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

individual who submitted the requests for database information. 1409

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

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

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

Sec. ~~4729.81~~ 4729.82. If the state board of pharmacy 1432
establishes a drug database pursuant to section 4729.75 of the 1433
Revised Code, the information collected for the database shall be 1434
retained in the database for at least two years. ~~The~~ Any 1435
information that identifies a patient shall ~~then~~ be destroyed 1436
after it has been retained for two years unless a law enforcement 1437
agency or a government entity responsible for the licensure, 1438

regulation, or discipline of licensed health ~~care~~ professionals 1439
authorized to prescribe drugs has submitted a written request to 1440
the board for retention of ~~specific~~ the information in accordance 1441
with rules adopted by the board under section ~~4729.83~~ 4729.84 of 1442
the Revised Code. 1443

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

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

Sec. ~~4729.83~~ 4729.84. For purposes of establishing and 1460
maintaining a drug database pursuant to section 4729.75 of the 1461
Revised Code, the state board of pharmacy shall adopt rules in 1462
accordance with Chapter 119. of the Revised Code to carry out and 1463
enforce sections 4729.75 to ~~4729.82~~ 4729.83 of the Revised Code. 1464
The rules shall specify all of the following: 1465

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

database; 1469

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

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

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

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

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

(G) A procedure whereby a person or government entity to 1491
which the board is authorized to provide information may submit a 1492
request to the board for the information and the board may verify 1493
the identity of the requestor; 1494

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

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

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

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

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

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

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

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

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

(3) The board's timeliness in transmitting information from

the database. 1529

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

(A)(1) No person identified in divisions (A)(1) to (9) or (B) 1533
of section 4729.80 of the Revised Code shall disseminate any 1534
written or electronic document the person receives from the drug 1535
database, except as necessary in the investigation or prosecution 1536
of a possible or alleged criminal offense. 1537

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

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

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

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

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

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

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

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

Sec. 4729.99. (A) Whoever violates section 4729.16, division 1562
(A) or (B) of section 4729.38, or section 4729.57 of the Revised 1563
Code is guilty of a minor misdemeanor. Each day's violation 1564
constitutes a separate offense. 1565

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 of 1566
the Revised Code is guilty of a misdemeanor of the third degree. 1567
Each day's violation constitutes a separate offense. If the 1568
offender previously has been convicted of or pleaded guilty to a 1569
violation of this chapter, that person is guilty of a misdemeanor 1570
of the second degree. 1571

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of 1572
the Revised Code is guilty of a misdemeanor. 1573

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

(E)(1) Whoever violates section 4729.37, division (C)(2) of 1577
section 4729.51, division (J) of section 4729.54, or section 1578
4729.61 of the Revised Code is guilty of a felony of the fifth 1579
degree. If the offender previously has been convicted of or 1580
pleaded guilty to a violation of this chapter or a violation of 1581
Chapter 2925. or 3719. of the Revised Code, that person is guilty 1582
of a felony of the fourth degree. 1583

(2) If an offender is convicted of or pleads guilty to a 1584
violation of section 4729.37, division (C) of section 4729.51, 1585
division (J) of section 4729.54, or section 4729.61 of the Revised 1586
Code, if the violation involves the sale, offer to sell, or 1587
possession of a schedule I or II controlled substance, with the 1588

exception of marihuana, and if the court imposing sentence upon 1589
the offender finds that the offender as a result of the violation 1590
is a major drug offender, as defined in section 2929.01 of the 1591
Revised Code, and is guilty of a specification of the type 1592
described in section 2941.1410 of the Revised Code, the court, in 1593
lieu of the prison term authorized or required by division (E)(1) 1594
of this section and sections 2929.13 and 2929.14 of the Revised 1595
Code and in addition to any other sanction imposed for the offense 1596
under sections 2929.11 to 2929.18 of the Revised Code, shall 1597
impose upon the offender, in accordance with division (D)(3)(a) of 1598
section 2929.14 of the Revised Code, the mandatory prison term 1599
specified in that division and may impose an additional prison 1600
term under division (D)(3)(b) of that section. 1601

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

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

(G) Whoever violates division (C)(1) of section 4729.51 of 1614
the Revised Code is guilty of a felony of the fourth degree. If 1615
the offender has previously been convicted of or pleaded guilty to 1616
a violation of this chapter, or of a violation of Chapter 2925. or 1617
3719. of the Revised Code, that person is guilty of a felony of 1618
the third degree. 1619

(H) Whoever violates division (C)(3) of section 4729.51 of 1620

the Revised Code is guilty of a misdemeanor of the first degree. 1621
If the offender has previously been convicted of or pleaded guilty 1622
to a violation of this chapter, or of a violation of Chapter 2925. 1623
or 3719. of the Revised Code, that person is guilty of a felony of 1624
the fifth degree. 1625

(I)(1) Whoever violates division (B) of section 4729.42 of 1626
the Revised Code is guilty of unauthorized pharmacy-related drug 1627
conduct. Except as otherwise provided in this section, 1628
unauthorized pharmacy-related drug conduct is a misdemeanor of the 1629
second degree. If the offender previously has been convicted of or 1630
pleaded guilty to a violation of division (B), (C), (D), or (E) of 1631
that section, unauthorized pharmacy-related drug conduct is a 1632
misdemeanor of the first degree on a second offense and a felony 1633
of the fifth degree on a third or subsequent offense. 1634

(2) Whoever violates division (C) or (D) of section 4729.42 1635
of the Revised Code is guilty of permitting unauthorized 1636
pharmacy-related drug conduct. Except as otherwise provided in 1637
this section, permitting unauthorized pharmacy-related drug 1638
conduct is a misdemeanor of the second degree. If the offender 1639
previously has been convicted of or pleaded guilty to a violation 1640
of division (B), (C), (D), or (E) of that section, permitting 1641
unauthorized pharmacy-related drug conduct is a misdemeanor of the 1642
first degree on a second offense and a felony of the fifth degree 1643
on a third or subsequent offense. 1644

(3) Whoever violates division (E) of section 4729.42 of the 1645
Revised Code is guilty of the offense of falsification under 1646
section 2921.13 of the Revised Code. In addition to any other 1647
sanction imposed for the violation, the offender is forever 1648
disqualified from engaging in any activity specified in division 1649
(B)(1), (2), or (3) of section 4729.42 of the Revised Code and 1650
from performing any function as a health care professional or 1651
health care worker. As used in this division, "health care 1652

professional" and "health care worker" have the same meanings as 1653
in section 2305.234 of the Revised Code. 1654

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

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

(2) Whoever violates division (A)(2) of section 4729.86 of 1673
the Revised Code is guilty of a misdemeanor of the first degree. 1674
If the offender has previously been convicted of or pleaded guilty 1675
to a violation of division (A)(1), (2), or (3) of section 4729.86 1676
of the Revised Code, that person is guilty of a felony of the 1677
fifth degree. 1678

(3) Whoever violates division (A)(3) of section 4729.86 of 1679
the Revised Code is guilty of a felony of the fifth degree. If the 1680
offender has previously been convicted of or pleaded guilty to a 1681
violation of division (A)(1), (2), or (3) of section 4729.86 of 1682
the Revised Code, that person is guilty of a felony of the fourth 1683
degree. 1684

(K) A person who violates division (C) of section 4729.552 of the Revised Code is guilty of a misdemeanor of the first degree. If the person previously has been convicted of or pleaded guilty to a violation of division (C) of section 4729.552 of the Revised Code, that person is guilty of a felony of the fifth degree. 1685
1686
1687
1688
1689

Sec. 4730.53. (A) As used in this section, "drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code. 1690
1691
1692

(B) The medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by a physician assistant who holds a certificate to prescribe issued under this chapter regarding the review of patient information available through the drug database. 1693
1694
1695
1696
1697

(C) This section and the rules adopted under it do not apply if the state board of pharmacy no longer maintains the drug database. 1698
1699
1700

Sec. 4731.052. (A) As used in this section: 1701

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

(2) ~~"Intractable pain" means a state of pain that is determined, after reasonable medical efforts have been made to relieve the pain or cure its cause, to have a cause for which no treatment or cure is possible or for which none has been found~~ 1704
1705
1706
1707
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. 1708
1709
1710
1711
1712
1713
1714

(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 combinations that may not be appropriate when treating other medical conditions. In developing the rules, the board shall consult with and permit review by physicians who are experienced in the diagnosis and treatment of ~~intractable~~ chronic pain.

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

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

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

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

(4) The dates on which dangerous drugs were prescribed,

furnished, or administered, the name and address of the individual 1746
to or for whom the dangerous drugs were prescribed, dispensed, or 1747
administered, and the amounts and dosage forms for the dangerous 1748
drugs prescribed, furnished, or administered; 1749

(5) A copy of the report made by the physician or the 1750
physician to whom referral for evaluation was made under this 1751
division. 1752

(D) A physician who treats ~~intractable~~ chronic pain by 1753
managing it with dangerous drugs is not subject to disciplinary 1754
action by the board under section 4731.22 of the Revised Code 1755
solely because the physician treated the ~~intractable~~ chronic pain 1756
with dangerous drugs. The physician is subject to disciplinary 1757
action only if the dangerous drugs are not prescribed, furnished, 1758
or administered in accordance with this section and the rules 1759
adopted under it. 1760

Sec. 4731.054. (A) As used in this section: 1761

(1) "Chronic pain" has the same meaning as in section 1762
4731.052 of the Revised Code. 1763

(2) "Controlled substance" has the same meaning as in section 1764
3719.01 of the Revised Code. 1765

(3) "Owner" means each person included on the list maintained 1766
under division (B)(5) of section 4729.552 of the Revised Code. 1767

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

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

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

<u>(iii) The facility meets any other identifying criteria</u>	1776
<u>established in rules adopted under this section.</u>	1777
<u>(b) "Pain management clinic" does not include any of the</u>	1778
<u>following:</u>	1779
<u>(i) A hospital registered with the department of health under</u>	1780
<u>section 3701.07 of the Revised Code or a facility owned by such a</u>	1781
<u>hospital;</u>	1782
<u>(ii) A medical, dental, or optometry school that is part of</u>	1783
<u>or affiliated with a state institution of higher education or an</u>	1784
<u>institution that holds a certificate of authorization issued by</u>	1785
<u>the Ohio board of regents under section 1713.02 of the Revised</u>	1786
<u>Code or a facility affiliated with such a medical, dental, or</u>	1787
<u>optometry school;</u>	1788
<u>(iii) A hospice program licensed under Chapter 3712. of the</u>	1789
<u>Revised Code;</u>	1790
<u>(iv) An ambulatory surgical facility licensed under section</u>	1791
<u>3702.30 of the Revised Code.</u>	1792
<u>(5) "Physician" means an individual authorized under this</u>	1793
<u>chapter to practice medicine and surgery or osteopathic medicine</u>	1794
<u>and surgery.</u>	1795
<u>(6) "Prescriber" has the same meaning as in section 4729.01</u>	1796
<u>of the Revised Code.</u>	1797
<u>(B) Each owner shall supervise, control, and direct the</u>	1798
<u>activities of each individual, including an employee, volunteer,</u>	1799
<u>or individual under contract, who provides treatment of pain or</u>	1800
<u>chronic pain at the clinic or is associated with the provision of</u>	1801
<u>that treatment. The supervision, control, and direction shall be</u>	1802
<u>provided in accordance with rules adopted under this section.</u>	1803
<u>(C) The state medical board shall adopt rules in accordance</u>	1804
<u>with Chapter 119. of the Revised Code that establish all of the</u>	1805

<u>following:</u>	1806
<u>(1) Standards and procedures for the operation of a pain management clinic;</u>	1807 1808
<u>(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic;</u>	1809 1810
<u>(3) For purposes of division (A)(4)(a)(ii) of this section, the other drugs used to treat pain or chronic pain that identify a facility as a pain management clinic;</u>	1811 1812 1813
<u>(4) For purposes of division (A)(4)(a)(iii) of this section, the other criteria that identify a facility as a pain management clinic;</u>	1814 1815 1816
<u>(5) For purposes of division (B) of this section, standards and procedures to be followed by an owner in providing supervision, direction, and control of individuals at a pain management clinic.</u>	1817 1818 1819 1820
<u>(D) The board may impose a fine of not more than twenty thousand dollars on a physician who fails to comply with rules adopted under this section. The fine may be in addition to or in lieu of any other action that may be taken under section 4731.22 of the Revised Code. The board shall deposit any amounts received under this division in accordance with section 4731.24 of the Revised Code.</u>	1821 1822 1823 1824 1825 1826 1827
<u>Sec. 4731.055. (A) As used in this section:</u>	1828
<u>(1) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.</u>	1829 1830 1831
<u>(2) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.</u>	1832 1833 1834

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

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

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

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

(3) Selling, giving away, personally furnishing, prescribing,

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

(4) Willfully betraying a professional confidence. 1870

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

(5) Making a false, fraudulent, deceptive, or misleading 1885
statement in the solicitation of or advertising for patients; in 1886
relation to the practice of medicine and surgery, osteopathic 1887
medicine and surgery, podiatric medicine and surgery, or a limited 1888
branch of medicine; or in securing or attempting to secure any 1889
certificate to practice or certificate of registration issued by 1890
the board. 1891

As used in this division, "false, fraudulent, deceptive, or 1892
misleading statement" means a statement that includes a 1893
misrepresentation of fact, is likely to mislead or deceive because 1894
of a failure to disclose material facts, is intended or is likely 1895
to create false or unjustified expectations of favorable results, 1896

or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

1897
1898
1899

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

1900
1901
1902
1903

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

1904
1905
1906
1907

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

1908
1909
1910

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

1911
1912
1913

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

1914
1915
1916

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

1917
1918
1919

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

1920
1921
1922

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

1923
1924
1925

(14) Commission of an act involving moral turpitude that

1926

constitutes a misdemeanor in this state, regardless of the	1927
jurisdiction in which the act was committed;	1928
(15) Violation of the conditions of limitation placed by the	1929
board upon a certificate to practice;	1930
(16) Failure to pay license renewal fees specified in this	1931
chapter;	1932
(17) Except as authorized in section 4731.31 of the Revised	1933
Code, engaging in the division of fees for referral of patients,	1934
or the receiving of a thing of value in return for a specific	1935
referral of a patient to utilize a particular service or business;	1936
(18) Subject to section 4731.226 of the Revised Code,	1937
violation of any provision of a code of ethics of the American	1938
medical association, the American osteopathic association, the	1939
American podiatric medical association, or any other national	1940
professional organizations that the board specifies by rule. The	1941
state medical board shall obtain and keep on file current copies	1942
of the codes of ethics of the various national professional	1943
organizations. The individual whose certificate is being suspended	1944
or revoked shall not be found to have violated any provision of a	1945
code of ethics of an organization not appropriate to the	1946
individual's profession.	1947
For purposes of this division, a "provision of a code of	1948
ethics of a national professional organization" does not include	1949
any provision that would preclude the making of a report by a	1950
physician of an employee's use of a drug of abuse, or of a	1951
condition of an employee other than one involving the use of a	1952
drug of abuse, to the employer of the employee as described in	1953
division (B) of section 2305.33 of the Revised Code. Nothing in	1954
this division affects the immunity from civil liability conferred	1955
by that section upon a physician who makes either type of report	1956
in accordance with division (B) of that section. As used in this	1957

division, "employee," "employer," and "physician" have the same 1958
meanings as in section 2305.33 of the Revised Code. 1959

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

In enforcing this division, the board, upon a showing of a 1965
possible violation, may compel any individual authorized to 1966
practice by this chapter or who has submitted an application 1967
pursuant to this chapter to submit to a mental examination, 1968
physical examination, including an HIV test, or both a mental and 1969
a physical examination. The expense of the examination is the 1970
responsibility of the individual compelled to be examined. Failure 1971
to submit to a mental or physical examination or consent to an HIV 1972
test ordered by the board constitutes an admission of the 1973
allegations against the individual unless the failure is due to 1974
circumstances beyond the individual's control, and a default and 1975
final order may be entered without the taking of testimony or 1976
presentation of evidence. If the board finds an individual unable 1977
to practice because of the reasons set forth in this division, the 1978
board shall require the individual to submit to care, counseling, 1979
or treatment by physicians approved or designated by the board, as 1980
a condition for initial, continued, reinstated, or renewed 1981
authority to practice. An individual affected under this division 1982
shall be afforded an opportunity to demonstrate to the board the 1983
ability to resume practice in compliance with acceptable and 1984
prevailing standards under the provisions of the individual's 1985
certificate. For the purpose of this division, any individual who 1986
applies for or receives a certificate to practice under this 1987
chapter accepts the privilege of practicing in this state and, by 1988
so doing, shall be deemed to have given consent to submit to a 1989

mental or physical examination when directed to do so in writing 1990
by the board, and to have waived all objections to the 1991
admissibility of testimony or examination reports that constitute 1992
a privileged communication. 1993

(20) Except when civil penalties are imposed under section 1994
4731.225 or 4731.281 of the Revised Code, and subject to section 1995
4731.226 of the Revised Code, violating or attempting to violate, 1996
directly or indirectly, or assisting in or abetting the violation 1997
of, or conspiring to violate, any provisions of this chapter or 1998
any rule promulgated by the board. 1999

This division does not apply to a violation or attempted 2000
violation of, assisting in or abetting the violation of, or a 2001
conspiracy to violate, any provision of this chapter or any rule 2002
adopted by the board that would preclude the making of a report by 2003
a physician of an employee's use of a drug of abuse, or of a 2004
condition of an employee other than one involving the use of a 2005
drug of abuse, to the employer of the employee as described in 2006
division (B) of section 2305.33 of the Revised Code. Nothing in 2007
this division affects the immunity from civil liability conferred 2008
by that section upon a physician who makes either type of report 2009
in accordance with division (B) of that section. As used in this 2010
division, "employee," "employer," and "physician" have the same 2011
meanings as in section 2305.33 of the Revised Code. 2012

(21) The violation of section 3701.79 of the Revised Code or 2013
of any abortion rule adopted by the public health council pursuant 2014
to section 3701.341 of the Revised Code; 2015

(22) Any of the following actions taken by the agency 2016
responsible for regulating the practice of medicine and surgery, 2017
osteopathic medicine and surgery, podiatric medicine and surgery, 2018
or the limited branches of medicine in another jurisdiction, for 2019
any reason other than the nonpayment of fees: the limitation, 2020
revocation, or suspension of an individual's license to practice; 2021

acceptance of an individual's license surrender; denial of a 2022
license; refusal to renew or reinstate a license; imposition of 2023
probation; or issuance of an order of censure or other reprimand; 2024

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

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

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

(26) Impairment of ability to practice according to 2044
acceptable and prevailing standards of care because of habitual or 2045
excessive use or abuse of drugs, alcohol, or other substances that 2046
impair ability to practice. 2047

For the purposes of this division, any individual authorized 2048
to practice by this chapter accepts the privilege of practicing in 2049
this state subject to supervision by the board. By filing an 2050
application for or holding a certificate to practice under this 2051
chapter, an individual shall be deemed to have given consent to 2052

submit to a mental or physical examination when ordered to do so 2053
by the board in writing, and to have waived all objections to the 2054
admissibility of testimony or examination reports that constitute 2055
privileged communications. 2056

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

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

Before being eligible to apply for reinstatement of a 2076
certificate suspended under this division, the impaired 2077
practitioner shall demonstrate to the board the ability to resume 2078
practice in compliance with acceptable and prevailing standards of 2079
care under the provisions of the practitioner's certificate. The 2080
demonstration shall include, but shall not be limited to, the 2081
following: 2082

(a) Certification from a treatment provider approved under 2083
section 4731.25 of the Revised Code that the individual has 2084

successfully completed any required inpatient treatment; 2085

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

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

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

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

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

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

(a) Waiving the payment of all or any part of a deductible or 2109
copayment that a patient, pursuant to a health insurance or health 2110
care policy, contract, or plan that covers the individual's 2111
services, otherwise would be required to pay if the waiver is used 2112
as an enticement to a patient or group of patients to receive 2113
health care services from that individual; 2114

(b) Advertising that the individual will waive the payment of 2115
all or any part of a deductible or copayment that a patient, 2116
pursuant to a health insurance or health care policy, contract, or 2117
plan that covers the individual's services, otherwise would be 2118
required to pay. 2119

(29) Failure to use universal blood and body fluid 2120
precautions established by rules adopted under section 4731.051 of 2121
the Revised Code; 2122

(30) Failure to provide notice to, and receive acknowledgment 2123
of the notice from, a patient when required by section 4731.143 of 2124
the Revised Code prior to providing nonemergency professional 2125
services, or failure to maintain that notice in the patient's 2126
file; 2127

(31) Failure of a physician supervising a physician assistant 2128
to maintain supervision in accordance with the requirements of 2129
Chapter 4730. of the Revised Code and the rules adopted under that 2130
chapter; 2131

(32) Failure of a physician or podiatrist to enter into a 2132
standard care arrangement with a clinical nurse specialist, 2133
certified nurse-midwife, or certified nurse practitioner with whom 2134
the physician or podiatrist is in collaboration pursuant to 2135
section 4731.27 of the Revised Code or failure to fulfill the 2136
responsibilities of collaboration after entering into a standard 2137
care arrangement; 2138

(33) Failure to comply with the terms of a consult agreement 2139
entered into with a pharmacist pursuant to section 4729.39 of the 2140
Revised Code; 2141

(34) Failure to cooperate in an investigation conducted by 2142
the board under division (F) of this section, including failure to 2143
comply with a subpoena or order issued by the board or failure to 2144
answer truthfully a question presented by the board at a 2145

deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	2146 2147 2148 2149 2150
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	2151 2152 2153
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	2154 2155 2156
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	2157 2158
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	2159 2160
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	2161 2162 2163
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	2164 2165 2166
<u>(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;</u>	2167 2168 2169 2170
<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>	2171 2172 2173 2174
<u>(43) Failure to comply with the requirements of section</u>	2175

4729.79 of the Revised Code, unless the state board of pharmacy no 2176
longer maintains a drug database pursuant to section 4729.75 of 2177
the Revised Code. 2178

(C) Disciplinary actions taken by the board under divisions 2179
(A) and (B) of this section shall be taken pursuant to an 2180
adjudication under Chapter 119. of the Revised Code, except that 2181
in lieu of an adjudication, the board may enter into a consent 2182
agreement with an individual to resolve an allegation of a 2183
violation of this chapter or any rule adopted under it. A consent 2184
agreement, when ratified by an affirmative vote of not fewer than 2185
six members of the board, shall constitute the findings and order 2186
of the board with respect to the matter addressed in the 2187
agreement. If the board refuses to ratify a consent agreement, the 2188
admissions and findings contained in the consent agreement shall 2189
be of no force or effect. 2190

If the board takes disciplinary action against an individual 2191
under division (B) of this section for a second or subsequent plea 2192
of guilty to, or judicial finding of guilt of, a violation of 2193
section 2919.123 of the Revised Code, the disciplinary action 2194
shall consist of a suspension of the individual's certificate to 2195
practice for a period of at least one year or, if determined 2196
appropriate by the board, a more serious sanction involving the 2197
individual's certificate to practice. Any consent agreement 2198
entered into under this division with an individual that pertains 2199
to a second or subsequent plea of guilty to, or judicial finding 2200
of guilt of, a violation of that section shall provide for a 2201
suspension of the individual's certificate to practice for a 2202
period of at least one year or, if determined appropriate by the 2203
board, a more serious sanction involving the individual's 2204
certificate to practice. 2205

(D) For purposes of divisions (B)(10), (12), and (14) of this 2206
section, the commission of the act may be established by a finding 2207

by the board, pursuant to an adjudication under Chapter 119. of 2208
the Revised Code, that the individual committed the act. The board 2209
does not have jurisdiction under those divisions if the trial 2210
court renders a final judgment in the individual's favor and that 2211
judgment is based upon an adjudication on the merits. The board 2212
has jurisdiction under those divisions if the trial court issues 2213
an order of dismissal upon technical or procedural grounds. 2214

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

(F)(1) The board shall investigate evidence that appears to 2224
show that a person has violated any provision of this chapter or 2225
any rule adopted under it. Any person may report to the board in a 2226
signed writing any information that the person may have that 2227
appears to show a violation of any provision of this chapter or 2228
any rule adopted under it. In the absence of bad faith, any person 2229
who reports information of that nature or who testifies before the 2230
board in any adjudication conducted under Chapter 119. of the 2231
Revised Code shall not be liable in damages in a civil action as a 2232
result of the report or testimony. Each complaint or allegation of 2233
a violation received by the board shall be assigned a case number 2234
and shall be recorded by the board. 2235

(2) Investigations of alleged violations of this chapter or 2236
any rule adopted under it shall be supervised by the supervising 2237
member elected by the board in accordance with section 4731.02 of 2238
the Revised Code and by the secretary as provided in section 2239

4731.39 of the Revised Code. The president may designate another 2240
member of the board to supervise the investigation in place of the 2241
supervising member. No member of the board who supervises the 2242
investigation of a case shall participate in further adjudication 2243
of the case. 2244

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

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

A subpoena issued by the board may be served by a sheriff, 2265
the sheriff's deputy, or a board employee designated by the board. 2266
Service of a subpoena issued by the board may be made by 2267
delivering a copy of the subpoena to the person named therein, 2268
reading it to the person, or leaving it at the person's usual 2269
place of residence. When the person being served is a person whose 2270
practice is authorized by this chapter, service of the subpoena 2271

may be made by certified mail, restricted delivery, return receipt 2272
requested, and the subpoena shall be deemed served on the date 2273
delivery is made or the date the person refuses to accept 2274
delivery. 2275

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

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

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

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

The board may share any information it receives pursuant to 2296
an investigation, including patient records and patient record 2297
information, with law enforcement agencies, other licensing 2298
boards, and other governmental agencies that are prosecuting, 2299
adjudicating, or investigating alleged violations of statutes or 2300
administrative rules. An agency or board that receives the 2301
information shall comply with the same requirements regarding 2302

confidentiality as those with which the state medical board must 2303
comply, notwithstanding any conflicting provision of the Revised 2304
Code or procedure of the agency or board that applies when it is 2305
dealing with other information in its possession. In a judicial 2306
proceeding, the information may be admitted into evidence only in 2307
accordance with the Rules of Evidence, but the court shall require 2308
that appropriate measures are taken to ensure that confidentiality 2309
is maintained with respect to any part of the information that 2310
contains names or other identifying information about patients or 2311
complainants whose confidentiality was protected by the state 2312
medical board when the information was in the board's possession. 2313
Measures to ensure confidentiality that may be taken by the court 2314
include sealing its records or deleting specific information from 2315
its records. 2316

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

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

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

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

(d) The disposition of the case. 2327

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

(G) ~~If~~ The state medical board may suspend without prior 2332
hearing a certificate to practice issued under this chapter if the 2333

secretary and supervising member determine ~~that there~~ both of the 2334
following: 2335

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

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

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

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

Any summary suspension imposed under this division shall 2359
remain in effect, unless reversed on appeal, until a final 2360
adjudicative order issued by the board pursuant to this section 2361
and Chapter 119. of the Revised Code becomes effective. The board 2362
shall issue its final adjudicative order within seventy-five days 2363
after completion of its hearing. A failure to issue the order 2364

within seventy-five days shall result in dissolution of the 2365
summary suspension order but shall not invalidate any subsequent, 2366
final adjudicative order. 2367

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

(I) The certificate to practice issued to an individual under 2384
this chapter and the individual's practice in this state are 2385
automatically suspended as of the date of the individual's second 2386
or subsequent plea of guilty to, or judicial finding of guilt of, 2387
a violation of section 2919.123 of the Revised Code, or the date 2388
the individual pleads guilty to, is found by a judge or jury to be 2389
guilty of, or is subject to a judicial finding of eligibility for 2390
intervention in lieu of conviction in this state or treatment or 2391
intervention in lieu of conviction in another jurisdiction for any 2392
of the following criminal offenses in this state or a 2393
substantially equivalent criminal offense in another jurisdiction: 2394
aggravated murder, murder, voluntary manslaughter, felonious 2395
assault, kidnapping, rape, sexual battery, gross sexual 2396

imposition, aggravated arson, aggravated robbery, or aggravated 2397
burglary. Continued practice after suspension shall be considered 2398
practicing without a certificate. 2399

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

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

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

(J) If the board is required by Chapter 119. of the Revised 2417
Code to give notice of an opportunity for a hearing and if the 2418
individual subject to the notice does not timely request a hearing 2419
in accordance with section 119.07 of the Revised Code, the board 2420
is not required to hold a hearing, but may adopt, by an 2421
affirmative vote of not fewer than six of its members, a final 2422
order that contains the board's findings. In that final order, the 2423
board may order any of the sanctions identified under division (A) 2424
or (B) of this section. 2425

(K) Any action taken by the board under division (B) of this 2426
section resulting in a suspension from practice shall be 2427

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

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

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

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

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

(3) Failure by an individual to renew a certificate of 2452
registration in accordance with this chapter shall not remove or 2453
limit the board's jurisdiction to take any disciplinary action 2454
under this section against the individual. 2455

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

(1) In compliance with the health benefit plan that expressly 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. Documentation of the consent shall be made available to the board upon request.

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

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

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

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

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

(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.

Sec. 4776.02. (A) An applicant for an initial license or restored license from a licensing agency, ~~or~~ a person seeking to satisfy the criteria for being a qualified pharmacy technician

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

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

(B) Upon receipt of the completed form, the set of 2539
fingerprint impressions, and the fee provided for in division (A) 2540
of this section, the superintendent of the bureau of criminal 2541
identification and investigation shall conduct a criminal records 2542
check of the applicant or person under division (B) of section 2543
109.572 of the Revised Code. Upon completion of the criminal 2544
records check, the superintendent shall do whichever of the 2545
following is applicable: 2546

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

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

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

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

Sec. 4776.04. The results of any criminal records check conducted pursuant to a request made under this chapter and any report containing those results, including any information the federal bureau of investigation provides, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than as follows:

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

(1) The superintendent of the bureau of criminal

identification and investigation shall make the results available 2583
to the licensing agency for use in determining, under the agency's 2584
authorizing chapter of the Revised Code, whether the applicant who 2585
is the subject of the criminal records check should be granted a 2586
license under that chapter. 2587

(2) The licensing agency shall make the results available to 2588
the applicant who is the subject of the criminal records check. 2589

(B) If the request for the criminal records check was 2590
submitted by a person seeking to satisfy the criteria for being a 2591
qualified pharmacy technician that are specified in section 2592
4729.42 of the Revised Code or a person seeking to satisfy the 2593
requirements to be an employee of a pain management clinic as 2594
specified in section 4729.552 of the Revised Code, the 2595
superintendent of the bureau of criminal identification and 2596
investigation shall make the results available in accordance with 2597
the following: 2598

(1) The superintendent shall make the results of the criminal 2599
records check, including any information the federal bureau of 2600
investigation provides, available to the person who submitted the 2601
request and is the subject of the criminal records check. 2602

(2) The superintendent shall make the results of the portion 2603
of the criminal records check performed by the bureau of criminal 2604
identification and investigation under division (B)(1) of section 2605
109.572 of the Revised Code available to the employer or potential 2606
employer specified in the request of the person who submitted the 2607
request and shall send a letter of the type described in division 2608
(B)(2) of section 4776.02 of the Revised Code to that employer or 2609
potential employer regarding the information provided by the 2610
federal bureau of investigation that contains one of the types of 2611
statements described in that division. 2612

Sec. 5111.085. Not later than July 1, 2012, the department of 2613

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

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

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

If a health insuring corporation is required under this 2632
section to provide coverage of prescription drugs, the department 2633
shall permit the health insuring corporation to develop and 2634
implement a pharmacy utilization management program under which 2635
prior authorization through the program is established as a 2636
condition of obtaining a controlled substance pursuant to a 2637
prescription. ~~The program may include processes for requiring~~ 2638
~~medicaid recipients at high risk for fraud or abuse involving~~ 2639
~~controlled substances to have their prescriptions for controlled~~ 2640
~~substances filled by a pharmacy, medical provider, or health care~~ 2641
~~facility designated by the program.~~ 2642

Sec. 5111.179. Each contract the department of job and family 2643

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

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

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

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

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

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

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

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

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

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

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

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

(4) Information on the availability of, and methods to 2696
secure, federal grants necessary to implement the Board's 2697
recommendations; 2698

(5) A description of any other matters the Board considers 2699
relevant to the report. 2700

(C) On completion of the report, the Board shall submit 2701
copies to the Speaker of the House of Representatives, President 2702
of the Senate, and Governor. 2703

Section 5. Section 5111.179 of the Revised Code, as enacted 2704
by this act, shall be implemented by the Department of Job and 2705
Family Services not later than July 1, 2012. On and after the 2706
Department's implementation date, that section applies to 2707
contracts under section 5111.17 of the Revised Code as follows: 2708

(A) To each contract the Department enters into with a 2709
managed care organization on or after the Department's 2710
implementation date; 2711

(B) To each contract between the Department and a managed 2712
care organization that is in effect on the Department's 2713
implementation date if on or after that date the contract is 2714
renewed or the contract is amended or otherwise modified. 2715

Section 6. Section 5111.1710 of the Revised Code, as enacted 2716
by this act, shall be implemented by the Department of Job and 2717
Family Services not later than one year after the effective date 2718
of this section. On and after the Department's implementation 2719
date, that section applies to contracts under section 5111.17 of 2720
the Revised Code as follows: 2721

(A) To each contract the Department enters into with a 2722
managed care organization on or after the Department's 2723
implementation date; 2724

(B) To each contract between the Department and a managed 2725
care organization that is in effect on the Department's 2726
implementation date if on or after that date the contract is 2727
renewed or the contract is amended or otherwise modified. 2728

Section 7. Section 4731.22 of the Revised Code is presented 2729
in this act as a composite of the section as amended by Am. Sub. 2730
H.B. 280, Sub. H.B. 525, and Sub. S.B. 229 of the 127th General 2731
Assembly. The General Assembly, applying the principle stated in 2732
division (B) of section 1.52 of the Revised Code that amendments 2733

are to be harmonized if reasonably capable of simultaneous	2734
operation, finds that the composite is the resulting version of	2735
the section in effect prior to the effective date of the section	2736
as presented in this act.	2737