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Am. Sub. S. B. No. 83

Senators Oelslager, Tavares

Cosponsors: Senators Cafaro, Brown, Coley, Daniels, Hughes, Niehaus,

Sawyer, Schiavoni, Turner, Wilson

**Representatives Goodwin, Fende, Antonio, Barnes, Gardner, Garland,
Hackett, Hagan, R., Hill, Ramos, Yuko, Amstutz, Anielski, Blessing, Brenner,
Celebrezze, Celeste, Cera, Damschroder, Driehaus, Fedor, Foley, Gerberry,
Hagan, C., Heard, Hottinger, Huffman, Kozlowski, Letson, Luckie, Milkovich,
Murray, O'Brien, Okey, Pillich, Reece, Ruhl, Sears, Slaby, Szollosi,
Weddington, Williams, Winburn Speaker Batchelder**

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A B I L L

To amend sections 3719.06, 4723.28, 4723.481, 1
4723.482, 4723.492, and 4723.50 of the Revised 2
Code to modify the authority of certain advanced 3
practice nurses to prescribe schedule II 4
controlled substances and to authorize the Board 5
of Nursing to take disciplinary actions for 6
self-administration of schedule I controlled 7
substances. 8

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

Section 1. That sections 3719.06, 4723.28, 4723.481, 9
4723.482, 4723.492, and 4723.50 of the Revised Code be amended to 10
read as follows: 11

Sec. 3719.06. (A)(1) A licensed health professional 12

authorized to prescribe drugs, if acting in the course of 13
professional practice, in accordance with the laws regulating the 14
professional's practice, and in accordance with rules adopted by 15
the state board of pharmacy, may, except as provided in division 16
(A)(2) or (3) of this section, do the following: 17

(a) Prescribe schedule II, III, IV, and V controlled 18
substances; 19

(b) Administer or personally furnish to patients schedule II, 20
III, IV, and V controlled substances; 21

(c) Cause schedule II, III, IV, and V controlled substances 22
to be administered under the prescriber's direction and 23
supervision. 24

(2) A licensed health professional authorized to prescribe 25
drugs who is a clinical nurse specialist, certified nurse-midwife, 26
or certified nurse practitioner is subject to both of the 27
following: 28

(a) A schedule II controlled substance may be prescribed only 29
~~for a patient with a terminal condition, as defined in section~~ 30
~~2133.01 of the Revised Code, only if the nurse's collaborating~~ 31
~~physician initially prescribed the substance for the patient, and~~ 32
~~only in an amount that does not exceed the amount necessary for~~ 33
~~the patient's use in a single, twenty four hour period in~~ 34
accordance with division (C) of section 4723.481 of the Revised 35
Code. 36

(b) No schedule II controlled substance shall be personally 37
furnished to any patient. 38

(3) A licensed health professional authorized to prescribe 39
drugs who is a physician assistant shall not prescribe or 40
personally furnish to patients any controlled substance that is 41
not included in the physician-delegated prescriptive authority 42
granted to the physician assistant in accordance with Chapter 43

4730. of the Revised Code. 44

(B) No licensed health professional authorized to prescribe 45
drugs shall prescribe, administer, or personally furnish a 46
schedule III anabolic steroid for the purpose of human muscle 47
building or enhancing human athletic performance and no pharmacist 48
shall dispense a schedule III anabolic steroid for either purpose, 49
unless it has been approved for that purpose under the "Federal 50
Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 51
301, as amended. 52

(C) Each written prescription shall be properly executed, 53
dated, and signed by the prescriber on the day when issued and 54
shall bear the full name and address of the person for whom, or 55
the owner of the animal for which, the controlled substance is 56
prescribed and the full name, address, and registry number under 57
the federal drug abuse control laws of the prescriber. If the 58
prescription is for an animal, it shall state the species of the 59
animal for which the controlled substance is prescribed. 60

Sec. 4723.28. (A) The board of nursing, by a vote of a 61
quorum, may revoke or may refuse to grant a nursing license, 62
certificate of authority, or dialysis technician certificate to a 63
person found by the board to have committed fraud in passing an 64
examination required to obtain the license, certificate of 65
authority, or dialysis technician certificate or to have committed 66
fraud, misrepresentation, or deception in applying for or securing 67
any nursing license, certificate of authority, or dialysis 68
technician certificate issued by the board. 69

(B) Subject to division (N) of this section, the board of 70
nursing, by a vote of a quorum, may impose one or more of the 71
following sanctions: deny, revoke, suspend, or place restrictions 72
on any nursing license, certificate of authority, or dialysis 73
technician certificate issued by the board; reprimand or otherwise 74

discipline a holder of a nursing license, certificate of 75
authority, or dialysis technician certificate; or impose a fine of 76
not more than five hundred dollars per violation. The sanctions 77
may be imposed for any of the following: 78

(1) Denial, revocation, suspension, or restriction of 79
authority to practice a health care occupation, including nursing 80
or practice as a dialysis technician, for any reason other than a 81
failure to renew, in Ohio or another state or jurisdiction; 82

(2) Engaging in the practice of nursing or engaging in 83
practice as a dialysis technician, having failed to renew a 84
nursing license or dialysis technician certificate issued under 85
this chapter, or while a nursing license or dialysis technician 86
certificate is under suspension; 87

(3) Conviction of, a plea of guilty to, a judicial finding of 88
guilt of, a judicial finding of guilt resulting from a plea of no 89
contest to, or a judicial finding of eligibility for intervention 90
in lieu of conviction for, a misdemeanor committed in the course 91
of practice; 92

(4) Conviction of, a plea of guilty to, a judicial finding of 93
guilt of, a judicial finding of guilt resulting from a plea of no 94
contest to, or a judicial finding of eligibility for intervention 95
in lieu of conviction for, any felony or of any crime involving 96
gross immorality or moral turpitude; 97

(5) Selling, giving away, or administering drugs or 98
therapeutic devices for other than legal and legitimate 99
therapeutic purposes; or conviction of, a plea of guilty to, a 100
judicial finding of guilt of, a judicial finding of guilt 101
resulting from a plea of no contest to, or a judicial finding of 102
eligibility for intervention in lieu of conviction for, violating 103
any municipal, state, county, or federal drug law; 104

(6) Conviction of, a plea of guilty to, a judicial finding of 105

guilt of, a judicial finding of guilt resulting from a plea of no 106
contest to, or a judicial finding of eligibility for intervention 107
in lieu of conviction for, an act in another jurisdiction that 108
would constitute a felony or a crime of moral turpitude in Ohio; 109

(7) Conviction of, a plea of guilty to, a judicial finding of 110
guilt of, a judicial finding of guilt resulting from a plea of no 111
contest to, or a judicial finding of eligibility for intervention 112
in lieu of conviction for, an act in the course of practice in 113
another jurisdiction that would constitute a misdemeanor in Ohio; 114

(8) Self-administering or otherwise taking into the body any 115
dangerous drug, as defined in section 4729.01 of the Revised Code, 116
in any way not in accordance with a legal, valid prescription 117
issued for that individual, or self-administering or otherwise 118
taking into the body any drug that is a schedule I controlled 119
substance; 120

(9) Habitual indulgence in the use of controlled substances, 121
other habit-forming drugs, or alcohol or other chemical substances 122
to an extent that impairs ability to practice; 123

(10) Impairment of the ability to practice according to 124
acceptable and prevailing standards of safe nursing care because 125
of habitual or excessive use of drugs, alcohol, or other chemical 126
substances that impair the ability to practice; 127

(11) Impairment of the ability to practice according to 128
acceptable and prevailing standards of safe nursing care because 129
of a physical or mental disability; 130

(12) Assaulting or causing harm to a patient or depriving a 131
patient of the means to summon assistance; 132

(13) Obtaining or attempting to obtain money or anything of 133
value by intentional misrepresentation or material deception in 134
the course of practice; 135

(14) Adjudication by a probate court of being mentally ill or	136
mentally incompetent. The board may restore the person's nursing	137
license or dialysis technician certificate upon adjudication by a	138
probate court of the person's restoration to competency or upon	139
submission to the board of other proof of competency.	140
(15) The suspension or termination of employment by the	141
department of defense or the veterans administration of the United	142
States for any act that violates or would violate this chapter;	143
(16) Violation of this chapter or any rules adopted under it;	144
(17) Violation of any restrictions placed on a nursing	145
license or dialysis technician certificate by the board;	146
(18) Failure to use universal blood and body fluid	147
precautions established by rules adopted under section 4723.07 of	148
the Revised Code;	149
(19) Failure to practice in accordance with acceptable and	150
prevailing standards of safe nursing care or safe dialysis care;	151
(20) In the case of a registered nurse, engaging in	152
activities that exceed the practice of nursing as a registered	153
nurse;	154
(21) In the case of a licensed practical nurse, engaging in	155
activities that exceed the practice of nursing as a licensed	156
practical nurse;	157
(22) In the case of a dialysis technician, engaging in	158
activities that exceed those permitted under section 4723.72 of	159
the Revised Code;	160
(23) Aiding and abetting a person in that person's practice	161
of nursing without a license or practice as a dialysis technician	162
without a certificate issued under this chapter;	163
(24) In the case of a certified registered nurse anesthetist,	164
clinical nurse specialist, certified nurse-midwife, or certified	165

nurse practitioner, except as provided in division (M) of this 166
section, either of the following: 167

(a) Waiving the payment of all or any part of a deductible or 168
copayment that a patient, pursuant to a health insurance or health 169
care policy, contract, or plan that covers such nursing services, 170
would otherwise be required to pay if the waiver is used as an 171
enticement to a patient or group of patients to receive health 172
care services from that provider; 173

(b) Advertising that the nurse will waive the payment of all 174
or any part of a deductible or copayment that a patient, pursuant 175
to a health insurance or health care policy, contract, or plan 176
that covers such nursing services, would otherwise be required to 177
pay. 178

(25) Failure to comply with the terms and conditions of 179
participation in the chemical dependency monitoring program 180
established under section 4723.35 of the Revised Code; 181

(26) Failure to comply with the terms and conditions required 182
under the practice intervention and improvement program 183
established under section 4723.282 of the Revised Code; 184

(27) In the case of a certified registered nurse anesthetist, 185
clinical nurse specialist, certified nurse-midwife, or certified 186
nurse practitioner: 187

(a) Engaging in activities that exceed those permitted for 188
the nurse's nursing specialty under section 4723.43 of the Revised 189
Code; 190

(b) Failure to meet the quality assurance standards 191
established under section 4723.07 of the Revised Code. 192

(28) In the case of a clinical nurse specialist, certified 193
nurse-midwife, or certified nurse practitioner, failure to 194
maintain a standard care arrangement in accordance with section 195

4723.431 of the Revised Code or to practice in accordance with the	196
standard care arrangement;	197
(29) In the case of a clinical nurse specialist, certified	198
nurse-midwife, or certified nurse practitioner who holds a	199
certificate to prescribe issued under section 4723.48 of the	200
Revised Code, failure to prescribe drugs and therapeutic devices	201
in accordance with section 4723.481 of the Revised Code;	202
(30) Prescribing any drug or device to perform or induce an	203
abortion, or otherwise performing or inducing an abortion;	204
(31) Failure to establish and maintain professional	205
boundaries with a patient, as specified in rules adopted under	206
section 4723.07 of the Revised Code;	207
(32) Regardless of whether the contact or verbal behavior is	208
consensual, engaging with a patient other than the spouse of the	209
registered nurse, licensed practical nurse, or dialysis technician	210
in any of the following:	211
(a) Sexual contact, as defined in section 2907.01 of the	212
Revised Code;	213
(b) Verbal behavior that is sexually demeaning to the patient	214
or may be reasonably interpreted by the patient as sexually	215
demeaning.	216
(33) Assisting suicide as defined in section 3795.01 of the	217
Revised Code.	218
(C) Disciplinary actions taken by the board under divisions	219
(A) and (B) of this section shall be taken pursuant to an	220
adjudication conducted under Chapter 119. of the Revised Code,	221
except that in lieu of a hearing, the board may enter into a	222
consent agreement with an individual to resolve an allegation of a	223
violation of this chapter or any rule adopted under it. A consent	224
agreement, when ratified by a vote of a quorum, shall constitute	225

the findings and order of the board with respect to the matter 226
addressed in the agreement. If the board refuses to ratify a 227
consent agreement, the admissions and findings contained in the 228
agreement shall be of no effect. 229

(D) The hearings of the board shall be conducted in 230
accordance with Chapter 119. of the Revised Code, the board may 231
appoint a hearing examiner, as provided in section 119.09 of the 232
Revised Code, to conduct any hearing the board is authorized to 233
hold under Chapter 119. of the Revised Code. 234

In any instance in which the board is required under Chapter 235
119. of the Revised Code to give notice of an opportunity for a 236
hearing and the applicant or license holder does not make a timely 237
request for a hearing in accordance with section 119.07 of the 238
Revised Code, the board is not required to hold a hearing, but may 239
adopt, by a vote of a quorum, a final order that contains the 240
board's findings. In the final order, the board may order any of 241
the sanctions listed in division (A) or (B) of this section. 242

(E) If a criminal action is brought against a registered 243
nurse, licensed practical nurse, or dialysis technician for an act 244
or crime described in divisions (B)(3) to (7) of this section and 245
the action is dismissed by the trial court other than on the 246
merits, the board shall conduct an adjudication to determine 247
whether the registered nurse, licensed practical nurse, or 248
dialysis technician committed the act on which the action was 249
based. If the board determines on the basis of the adjudication 250
that the registered nurse, licensed practical nurse, or dialysis 251
technician committed the act, or if the registered nurse, licensed 252
practical nurse, or dialysis technician fails to participate in 253
the adjudication, the board may take action as though the 254
registered nurse, licensed practical nurse, or dialysis technician 255
had been convicted of the act. 256

If the board takes action on the basis of a conviction, plea, 257

or a judicial finding as described in divisions (B)(3) to (7) of 258
this section that is overturned on appeal, the registered nurse, 259
licensed practical nurse, or dialysis technician may, on 260
exhaustion of the appeal process, petition the board for 261
reconsideration of its action. On receipt of the petition and 262
supporting court documents, the board shall temporarily rescind 263
its action. If the board determines that the decision on appeal 264
was a decision on the merits, it shall permanently rescind its 265
action. If the board determines that the decision on appeal was 266
not a decision on the merits, it shall conduct an adjudication to 267
determine whether the registered nurse, licensed practical nurse, 268
or dialysis technician committed the act on which the original 269
conviction, plea, or judicial finding was based. If the board 270
determines on the basis of the adjudication that the registered 271
nurse, licensed practical nurse, or dialysis technician committed 272
such act, or if the registered nurse, licensed practical nurse, or 273
dialysis technician does not request an adjudication, the board 274
shall reinstate its action; otherwise, the board shall permanently 275
rescind its action. 276

Notwithstanding the provision of division (C)(2) of section 277
2953.32 of the Revised Code specifying that if records pertaining 278
to a criminal case are sealed under that section the proceedings 279
in the case shall be deemed not to have occurred, sealing of the 280
records of a conviction on which the board has based an action 281
under this section shall have no effect on the board's action or 282
any sanction imposed by the board under this section. 283

The board shall not be required to seal, destroy, redact, or 284
otherwise modify its records to reflect the court's sealing of 285
conviction records. 286

(F) The board may investigate an individual's criminal 287
background in performing its duties under this section. 288

(G) During the course of an investigation conducted under 289

this section, the board may compel any registered nurse, licensed 290
practical nurse, or dialysis technician or applicant under this 291
chapter to submit to a mental or physical examination, or both, as 292
required by the board and at the expense of the individual, if the 293
board finds reason to believe that the individual under 294
investigation may have a physical or mental impairment that may 295
affect the individual's ability to provide safe nursing care. 296
Failure of any individual to submit to a mental or physical 297
examination when directed constitutes an admission of the 298
allegations, unless the failure is due to circumstances beyond the 299
individual's control, and a default and final order may be entered 300
without the taking of testimony or presentation of evidence. 301

If the board finds that an individual is impaired, the board 302
shall require the individual to submit to care, counseling, or 303
treatment approved or designated by the board, as a condition for 304
initial, continued, reinstated, or renewed authority to practice. 305
The individual shall be afforded an opportunity to demonstrate to 306
the board that the individual can begin or resume the individual's 307
occupation in compliance with acceptable and prevailing standards 308
of care under the provisions of the individual's authority to 309
practice. 310

For purposes of this division, any registered nurse, licensed 311
practical nurse, or dialysis technician or applicant under this 312
chapter shall be deemed to have given consent to submit to a 313
mental or physical examination when directed to do so in writing 314
by the board, and to have waived all objections to the 315
admissibility of testimony or examination reports that constitute 316
a privileged communication. 317

(H) The board shall investigate evidence that appears to show 318
that any person has violated any provision of this chapter or any 319
rule of the board. Any person may report to the board any 320
information the person may have that appears to show a violation 321

of any provision of this chapter or rule of the board. In the 322
absence of bad faith, any person who reports such information or 323
who testifies before the board in any adjudication conducted under 324
Chapter 119. of the Revised Code shall not be liable for civil 325
damages as a result of the report or testimony. 326

(I) All of the following apply under this chapter with 327
respect to the confidentiality of information: 328

(1) Information received by the board pursuant to an 329
investigation is confidential and not subject to discovery in any 330
civil action, except that the board may disclose information to 331
law enforcement officers and government entities investigating 332
either a licensed health care professional, including a registered 333
nurse, licensed practical nurse, or dialysis technician, or a 334
person who may have engaged in the unauthorized practice of 335
nursing. No law enforcement officer or government entity with 336
knowledge of any information disclosed by the board pursuant to 337
this division shall divulge the information to any other person or 338
government entity except for the purpose of a government 339
investigation, a prosecution, or an adjudication by a court or 340
government entity. 341

(2) If an investigation requires a review of patient records, 342
the investigation and proceeding shall be conducted in such a 343
manner as to protect patient confidentiality. 344

(3) All adjudications and investigations of the board shall 345
be considered civil actions for the purposes of section 2305.252 346
of the Revised Code. 347

(4) Any board activity that involves continued monitoring of 348
an individual as part of or following any disciplinary action 349
taken under this section shall be conducted in a manner that 350
maintains the individual's confidentiality. Information received 351
or maintained by the board with respect to the board's monitoring 352

activities is confidential and not subject to discovery in any 353
civil action. 354

(J) Any action taken by the board under this section 355
resulting in a suspension from practice shall be accompanied by a 356
written statement of the conditions under which the person may be 357
reinstated to practice. 358

(K) When the board refuses to grant a license or certificate 359
to an applicant, revokes a license or certificate, or refuses to 360
reinstate a license or certificate, the board may specify that its 361
action is permanent. An individual subject to permanent action 362
taken by the board is forever ineligible to hold a license or 363
certificate of the type that was refused or revoked and the board 364
shall not accept from the individual an application for 365
reinstatement of the license or certificate or for a new license 366
or certificate. 367

(L) No unilateral surrender of a nursing license, certificate 368
of authority, or dialysis technician certificate issued under this 369
chapter shall be effective unless accepted by majority vote of the 370
board. No application for a nursing license, certificate of 371
authority, or dialysis technician certificate issued under this 372
chapter may be withdrawn without a majority vote of the board. The 373
board's jurisdiction to take disciplinary action under this 374
section is not removed or limited when an individual has a license 375
or certificate classified as inactive or fails to renew a license 376
or certificate. 377

(M) Sanctions shall not be imposed under division (B)(24) of 378
this section against any licensee who waives deductibles and 379
copayments as follows: 380

(1) In compliance with the health benefit plan that expressly 381
allows such a practice. Waiver of the deductibles or copayments 382
shall be made only with the full knowledge and consent of the plan 383

purchaser, payer, and third-party administrator. Documentation of 384
the consent shall be made available to the board upon request. 385

(2) For professional services rendered to any other person 386
licensed pursuant to this chapter to the extent allowed by this 387
chapter and the rules of the board. 388

(N)(1) Any person who enters a prelicensure nursing education 389
program on or after June 1, 2003, and who subsequently applies 390
under division (A) of section 4723.09 of the Revised Code for 391
licensure to practice as a registered nurse or as a licensed 392
practical nurse and any person who applies under division (B) of 393
that section for license by endorsement to practice nursing as a 394
registered nurse or as a licensed practical nurse shall submit a 395
request to the bureau of criminal identification and investigation 396
for the bureau to conduct a criminal records check of the 397
applicant and to send the results to the board, in accordance with 398
section 4723.09 of the Revised Code. 399

The board shall refuse to grant a license to practice nursing 400
as a registered nurse or as a licensed practical nurse under 401
section 4723.09 of the Revised Code to a person who entered a 402
prelicensure nursing education program on or after June 1, 2003, 403
and applied under division (A) of section 4723.09 of the Revised 404
Code for the license or a person who applied under division (B) of 405
that section for the license, if the criminal records check 406
performed in accordance with division (C) of that section 407
indicates that the person has pleaded guilty to, been convicted 408
of, or has had a judicial finding of guilt for violating section 409
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 410
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 411
substantially similar law of another state, the United States, or 412
another country. 413

(2) Any person who enters a dialysis training program on or 414
after June 1, 2003, and who subsequently applies for a certificate 415

to practice as a dialysis technician shall submit a request to the 416
bureau of criminal identification and investigation for the bureau 417
to conduct a criminal records check of the applicant and to send 418
the results to the board, in accordance with section 4723.75 of 419
the Revised Code. 420

The board shall refuse to issue a certificate to practice as 421
a dialysis technician under section 4723.75 of the Revised Code to 422
a person who entered a dialysis training program on or after June 423
1, 2003, and whose criminal records check performed in accordance 424
with division (C) of that section indicates that the person has 425
pleaded guilty to, been convicted of, or has had a judicial 426
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 427
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 428
2911.11 of the Revised Code or a substantially similar law of 429
another state, the United States, or another country. 430

Sec. 4723.481. ~~Under a certificate to prescribe issued under~~ 431
~~section 4723.48 of the Revised Code, This section establishes~~ 432
standards and conditions regarding the authority of a clinical 433
nurse specialist, certified nurse-midwife, or certified nurse 434
practitioner ~~is subject to all of the following:~~ to prescribe 435
drugs and therapeutic devices under a certificate to prescribe 436
issued under section 4723.481 of the Revised Code. 437

(A) ~~The~~ A clinical nurse specialist, certified nurse-midwife, 438
or certified nurse practitioner shall not prescribe any drug or 439
therapeutic device that is not included in the types of drugs and 440
devices listed on the formulary established in rules adopted under 441
section 4723.50 of the Revised Code. 442

(B) The ~~nurse's~~ prescriptive authority of a clinical nurse 443
specialist, certified nurse-midwife, or certified nurse 444
practitioner shall not exceed the prescriptive authority of the 445
collaborating physician or podiatrist. 446

(C) ~~The nurse may prescribe a schedule II controlled substance as specified in division (A)(2) of section 3719.06 of the Revised Code, but shall not prescribe a schedule II controlled substance in collaboration with a podiatrist~~ (1) Except as provided in division (C)(2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code.

(b) The collaborating physician of the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner initially prescribed the substance for the patient.

(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four hour period.

(2) The restrictions on prescriptive authority in division (C)(1) of this section do not apply if a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issues the prescription to the patient from any of the following locations:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(c) A health care facility operated by the department of mental health or the department of developmental disabilities;

(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section

<u>3721.09 of the Revised Code;</u>	477
<u>(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;</u>	478 479 480
<u>(f) A hospice care program, as defined in section 3712.01 of the Revised Code;</u>	481 482
<u>(g) A community mental health agency, as defined in section 5122.01 of the Revised Code;</u>	483 484
<u>(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;</u>	485 486
<u>(i) A freestanding birthing center, as defined in section 3702.51 of the Revised Code;</u>	487 488
<u>(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;</u>	489 490
<u>(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;</u>	491 492
<u>(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;</u>	493 494 495 496
<u>(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site.</u>	497 498 499 500 501 502 503 504
<u>(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a</u>	505 506

prescription for a schedule II controlled substance from a 507
convenience care clinic even if the clinic is owned or operated by 508
an entity specified in division (C)(2) of this section. 509

(D) The A pharmacist who acts in good faith reliance on a 510
prescription issued by a clinical nurse specialist, certified 511
nurse-midwife, or certified nurse practitioner under division 512
(C)(2) of this section is not liable for or subject to any of the 513
following for relying on the prescription: damages in any civil 514
action, prosecution in any criminal proceeding, or professional 515
disciplinary action by the state board of pharmacy under Chapter 516
4729. of the Revised Code. 517

(E) A clinical nurse specialist, certified nurse-midwife, or 518
certified nurse practitioner may personally furnish to a patient a 519
sample of any drug or therapeutic device included in the types of 520
drugs and devices listed on the formulary, ~~subject to~~ except that 521
all of the following conditions apply: 522

(1) The amount of the sample furnished shall not exceed a 523
seventy-two-hour supply, except when the minimum available 524
quantity of the sample is packaged in an amount that is greater 525
than a seventy-two-hour supply, in which case ~~the nurse may~~ 526
~~furnish the sample in the packaged amount~~ may be furnished. 527

(2) No charge may be imposed for the sample or for furnishing 528
it. 529

(3) Samples of controlled substances may not be personally 530
furnished. 531

~~(E) The~~ (F) A clinical nurse specialist, certified 532
nurse-midwife, or certified nurse practitioner may personally 533
furnish to a patient a complete or partial supply of a drug or 534
therapeutic device included in the types of drugs and devices 535
listed on the formulary, ~~subject to~~ except that all of the 536
following conditions apply: 537

(1) The clinical nurse specialist, certified nurse-midwife, 538
or certified nurse practitioner shall personally furnish only 539
antibiotics, antifungals, scabicides, contraceptives, prenatal 540
vitamins, antihypertensives, drugs and devices used in the 541
treatment of diabetes, drugs and devices used in the treatment of 542
asthma, and drugs used in the treatment of dyslipidemia. 543

(2) The clinical nurse specialist, certified nurse-midwife, 544
or certified nurse practitioner shall not furnish the drugs and 545
devices in locations other than a health department operated by 546
the board of health of a city or general health district or the 547
authority having the duties of a board of health under section 548
3709.05 of the Revised Code, a federally funded comprehensive 549
primary care clinic, or a nonprofit health care clinic or program. 550

(3) The clinical nurse specialist, certified nurse-midwife, 551
or certified nurse practitioner shall comply with all safety 552
standards for personally furnishing supplies of drugs and devices, 553
as established in rules adopted under section 4723.50 of the 554
Revised Code. 555

Sec. 4723.482. (A) Except as provided in divisions (C) and 556
(D) of this section, an applicant shall include with the 557
application submitted under section 4723.48 of the Revised Code 558
all of the following: 559

(1) Subject to section 4723.483 of the Revised Code, evidence 560
of holding a current, valid certificate of authority issued under 561
this chapter to practice as a clinical nurse specialist, certified 562
nurse-midwife, or certified nurse practitioner; 563

(2) ~~Except for a person who on May 17, 2000, was approved to~~ 564
~~prescribe drugs and therapeutic devices under section 4723.56 of~~ 565
~~the Revised Code, as that section existed on that date, evidence~~ 566
Evidence of successfully completing the instruction course of 567
study in advanced pharmacology and related topics in accordance 568

with the requirements specified in division (B) of this section; 569

(3) The fee required by section 4723.08 of the Revised Code 570
for a certificate to prescribe; 571

(4) Any additional information the board of nursing requires 572
pursuant to rules adopted under section 4723.50 of the Revised 573
Code. 574

(B) ~~All~~ With respect to the course of study in advanced 575
pharmacology and related topics that must be successfully 576
completed to obtain a certificate to prescribe, all of the 577
following requirements apply ~~to the instruction required under~~ 578
~~division (A)(2) of this section:~~ 579

(1) The ~~instruction must~~ course of study shall be ~~obtained~~ 580
completed not longer than three years before the application for 581
the certificate to prescribe is filed. 582

(2) The ~~instruction must be obtained through a course of~~ 583
study ~~consisting~~ shall consist of planned classroom and clinical 584
~~study that is~~ instruction for a total of not less than forty-five 585
contact hours. 586

(3) The course of study shall meet the requirements to be 587
approved by the board ~~of nursing~~ in accordance with standards 588
established in rules adopted under section 4723.50 of the Revised 589
Code. 590

~~(3)~~(4) The content of the ~~instruction must~~ course of study 591
shall be specific to the applicant's nursing specialty ~~and.~~ 592

(5) The instruction provided in the course of study shall 593
include all of the following: 594

(a) A minimum of ~~thirty~~ thirty-six contact hours of ~~training~~ 595
instruction in advanced pharmacology that includes pharmacokinetic 596
principles and clinical application and the use of drugs and 597
therapeutic devices in the prevention of illness and maintenance 598

of health; 599

(b) ~~Training~~ Instruction in the fiscal and ethical 600
implications of prescribing drugs and therapeutic devices; 601

(c) ~~Training~~ Instruction in the state and federal laws that 602
apply to the authority to prescribe; 603

(d) Instruction that is specific to schedule II controlled 604
substances, including instruction in all of the following: 605

(i) Indications for the use of schedule II controlled 606
substances in drug therapies; 607

(ii) The most recent guidelines for pain management 608
therapies, as established by state and national organizations such 609
as the Ohio pain initiative and the American pain society; 610

(iii) Fiscal and ethical implications of prescribing schedule 611
II controlled substances; 612

(iv) State and federal laws that apply to the authority to 613
prescribe schedule II controlled substances; 614

(v) Prevention of abuse and diversion of schedule II 615
controlled substances, including identification of the risk of 616
abuse and diversion, recognition of abuse and diversion, types of 617
assistance available for prevention of abuse and diversion, and 618
methods of establishing safeguards against abuse and diversion. 619

(e) Any additional ~~training~~ instruction required pursuant to 620
rules adopted under section 4723.50 of the Revised Code. 621

(C) An applicant who practiced or is practicing as a clinical 622
nurse specialist, certified nurse-midwife, or certified nurse 623
practitioner in another jurisdiction or as an employee of the 624
United States government, and is not seeking authority to 625
prescribe drugs and therapeutic devices by meeting the 626
requirements of division (A) or (D) of this section, shall include 627
with the application submitted under section 4723.48 of the 628

Revised Code all of the following:	629
(1) Subject to section 4723.483 of the Revised Code, evidence of holding a current, valid certificate of authority issued under this chapter to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;	630 631 632 633
(2) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe;	634 635
(3) Either of the following:	636
(a) Evidence of having held, for a continuous period of at least one year during the three years immediately preceding the date of application, valid authority issued by another jurisdiction to prescribe therapeutic devices and drugs, including at least some controlled substances;	637 638 639 640 641
(b) Evidence of having been employed by the United States government and authorized, for a continuous period of at least one year during the three years immediately preceding the date of application, to prescribe therapeutic devices and drugs, including at least some controlled substances, in conjunction with that employment.	642 643 644 645 646 647
(4) If the applicant includes the evidence described in division (C)(3)(a) of this section, documentation from a licensed physician in a form acceptable to the board that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician in the other jurisdiction;	648 649 650 651 652
(5) If the applicant includes the evidence described in division (C)(3)(b) of this section, documentation from a licensed physician employed by the United States government in a form acceptable to the board that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician employed by the United States government;	653 654 655 656 657 658

(6) Evidence of having completed a two-hour course of 659
instruction approved by the board in the laws of this state that 660
govern drugs and prescriptive authority; 661

(7) Any additional information the board requires pursuant to 662
rules adopted under section 4723.50 of the Revised Code. 663

(D) An applicant who practiced or is practicing as a clinical 664
nurse specialist, certified nurse-midwife, or certified nurse 665
practitioner in another jurisdiction or as an employee of the 666
United States government, and is not seeking authority to 667
prescribe drugs and therapeutic devices by meeting the 668
requirements of division (A) or (C) of this section, shall include 669
with the application submitted under section 4723.48 of the 670
Revised Code all of the following: 671

(1) Subject to section 4723.483 of the Revised Code, evidence 672
of holding a current, valid certificate of authority issued under 673
this chapter to practice as a clinical nurse specialist, certified 674
nurse-midwife, or certified nurse practitioner; 675

(2) The fee required by section 4723.08 of the Revised Code 676
for a certificate to prescribe; 677

(3) Either of the following: 678

(a) Evidence of having held, for a continuous period of at 679
least one year during the three years immediately preceding the 680
date of application, valid authority issued by another 681
jurisdiction to prescribe therapeutic devices and drugs, excluding 682
controlled substances; 683

(b) Evidence of having been employed by the United States 684
government and authorized, for a continuous period of at least one 685
year during the three years immediately preceding the date of 686
application, to prescribe therapeutic devices and drugs, excluding 687
controlled substances, in conjunction with that employment. 688

(4) If the applicant includes the evidence described in 689
division (D)(3)(a) of this section, documentation from a licensed 690
physician in a form acceptable to the board that the prescribing 691
component of the nurse's practice was overseen or supervised by a 692
licensed physician in the other jurisdiction; 693

(5) If the applicant includes the evidence described in 694
division (D)(3)(b) of this section, documentation from a licensed 695
physician employed by the United States government in a form 696
acceptable to the board that the prescribing component of the 697
nurse's practice was overseen or supervised by a licensed 698
physician employed by the United States government; 699

(6) Any additional information the board requires pursuant to 700
rules adopted under section 4723.50 of the Revised Code. 701

Sec. 4723.492. The committee on prescriptive governance shall 702
develop recommendations regarding the authority to prescribe drugs 703
and therapeutic devices pursuant to a certificate to prescribe 704
issued under section 4723.48 of the Revised Code. ~~Not later than~~ 705
~~fourteen months after the effective date of this section, the~~ The 706
recommendations shall include provisions that apply specifically 707
to the authority to prescribe schedule II controlled substances. 708

The committee shall submit recommendations to the board of 710
nursing as necessary for the board to fulfill its duty to adopt 711
rules under section 4723.50 of the Revised Code. At the board's 712
request, the committee shall reconsider a recommendation it has 713
submitted and resubmit the recommendation to the board 714
accordingly. 715

Sec. 4723.50. (A) In accordance with Chapter 119. of the 716
Revised Code, the board of nursing shall adopt rules as necessary 717
to implement the provisions of this chapter pertaining to the 718

authority of clinical nurse specialists, certified nurse-midwives, 719
and certified nurse practitioners to prescribe drugs and 720
therapeutic devices and the issuance and renewal of certificates 721
to prescribe. ~~Initial rules shall be adopted not later than twenty 722~~
~~months after May 17, 2000.~~ 723

The board shall adopt rules that are consistent with the 724
recommendations the board receives from the committee on 725
prescriptive governance pursuant to section 4723.492 of the 726
Revised Code. After reviewing a recommendation submitted by the 727
committee, the board may either adopt the recommendation as a rule 728
or ask the committee to reconsider and resubmit the 729
recommendation. The board shall not adopt any rule that does not 730
conform to a recommendation made by the committee. 731

(B) The board shall adopt rules under this section that do 732
all of the following: 733

(1) Establish a formulary listing the types of drugs and 734
therapeutic devices that may be prescribed by a clinical nurse 735
specialist, certified nurse-midwife, or certified nurse 736
practitioner. The formulary may include controlled substances, as 737
defined in section 3719.01 of the Revised Code. The formulary 738
shall not permit the prescribing of any drug or device to perform 739
or induce an abortion. 740

(2) Establish safety standards to be followed by a clinical 741
nurse specialist, certified nurse-midwife, or certified nurse 742
practitioner when personally furnishing to patients complete or 743
partial supplies of antibiotics, antifungals, scabicides, 744
contraceptives, prenatal vitamins, antihypertensives, drugs and 745
devices used in the treatment of diabetes, drugs and devices used 746
in the treatment of asthma, and drugs used in the treatment of 747
dyslipidemia. 748

(3) Establish criteria for the components of the standard 749

care arrangements described in section 4723.431 of the Revised Code that apply to ~~a nurse's~~ the authority to prescribe, including the components that apply to the authority to prescribe schedule II controlled substances. The rules shall be consistent with that section and include all of the following:

(a) Quality assurance standards;

(b) Standards for periodic review by a collaborating physician or podiatrist of the records of patients treated by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Acceptable travel time between the location at which the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is engaging in the prescribing components of the nurse's practice and the location of the nurse's collaborating physician or podiatrist;

(d) Any other criteria recommended by the committee on prescriptive governance.

(4) Establish standards and procedures for issuance and renewal of a certificate to prescribe, including specification of any additional information the board may require under division (A)(4), (C)(7), or (D)(6) of section 4723.482 or division (B)(3) of section 4723.485 of the Revised Code;

(5) Establish ~~requirements~~ standards for board approval of the ~~instruction~~ course of study in advanced pharmacology and related topics required by section 4723.482 of the Revised Code;

(6) Establish requirements for board approval of the two-hour course of instruction in the laws of this state as required under division (C)(6) of section 4723.482 of the Revised Code and division (B)(2) of section 4723.484 of the Revised Code;

(7) Establish standards and procedures for the appropriate

conduct of an externship as described in section 4723.484 of the Revised Code, including the following:

(a) Standards and procedures to be used in evaluating a ~~nurse's~~ an individual's participation in an externship;

(b) Standards and procedures for the supervision that a physician must provide during an externship, including supervision provided by working with the ~~nurse~~ participant and supervision provided by making timely reviews of the records of patients treated by the ~~nurse~~ participant. The manner in which supervision must be provided may vary according to the location where the ~~nurse~~ participant is practicing and with the ~~nurse's~~ participant's level of experience.

Section 2. That existing sections 3719.06, 4723.28, 4723.481, 4723.482, 4723.492, and 4723.50 of the Revised Code are hereby repealed.

Section 3. Beginning on the effective date of this act, the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe, including an externship certificate, includes the authority to prescribe schedule II controlled substances as authorized by sections 3719.06 and 4723.481 of the Revised Code, as amended by this act.

In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who received a certificate to prescribe before the effective date of this act or before the Board of Nursing has implemented the requirements of this act pertaining to instruction specific to schedule II controlled substances, the certificate holder shall submit evidence satisfactory to the Board that the certificate holder has completed a minimum of six contact hours of instruction specific

to schedule II controlled substances. The evidence of completing 810
the instruction shall be submitted by the certificate holder as a 811
condition of eligibility for renewal of the certificate to 812
prescribe or, in the case of an externship certificate holder, as 813
a condition of eligibility for receipt of a new certificate to 814
prescribe. 815

Section 4. The Board of Nursing shall adopt rules under 816
section 4723.50 of the Revised Code as necessary to implement the 817
provisions of this act pertaining to the authority to prescribe 818
schedule II controlled substances pursuant to a certificate to 819
prescribe. The rules shall conform to the recommendations 820
submitted by the Committee on Prescriptive Governance. 821