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Representative Stautberg

Cosponsors: Representatives Beck, Becker, Driehaus, Grossman, Milkovich, Rosenberger, Ruhl, Slaby, Stinziano, Bishoff, Brown, Sprague, Wachtmann, Amstutz, Anielski, Antonio, Ashford, Baker, Barborak, Blessing, Boose, Boyce, Buchy, Butler, Carney, Celebrezze, Cera, Conditt, Curtin, Damschroder, Derickson, DeVitis, Dovilla, Duffey, Fedor, Gerberry, Green, Hackett, Hagan, C., Hall, Hayes, Huffman, Johnson, Kunze, Landis, Letson, Lundy, Maag, Mallory, McClain, McGregor, O'Brien, Patterson, Pelanda, Perales, Reece, Roegner, Rogers, Romanchuk, Schuring, Sears, Sheehy, Smith, Strahorn, Terhar, Thompson, Williams, Winburn Speaker Batchelder

A B I L L

To amend sections 2925.02, 3701.63, 3701.64, 3719.01, 3719.061, 4715.14, 4715.30, 4723.28, 4723.481, 4723.486, 4725.16, 4725.19, 4729.12, 4729.16, 4729.18, 4729.85, 4729.86, 4730.25, 4730.41, 4730.48, 4731.22, 4731.281, 4773.03, 4773.08, 5165.08, 5165.513, 5165.515, and 5165.99; to enact sections 3701.66, 3701.67, 3701.68, and 3701.69; and to repeal sections 4715.15, 4723.433, 4730.093, and 4731.77 of the Revised Code to create the Commission on Infant Mortality and require the establishment of infant safe sleep procedures and policies; to modify the offense of "corrupting another with drugs"; to require the State Board of Pharmacy to prepare semiannual

reports on opioid prescriptions; to revise the laws governing the Ohio Automated Rx Reporting System and opioid prescriptions issued for minors; to require under certain conditions the reinstatement of inactive licenses to practice certain radiologic professions; to eliminate requirements regarding patient notice of the limits of Lyme disease testing; to retain certain laws regarding nursing facilities' admission policies and exclusions of parts of nursing facilities from Medicaid provider agreements; to require the distribution of information on Down Syndrome under certain conditions; to amend the versions of sections 4715.30, 4715.302, 4723.28, 4723.487, 4725.092, 4725.19, 4730.25, 4730.53, 4731.055, and 4731.22 of the Revised Code that are scheduled to take effect April 1, 2015, to continue the provisions of this act on and after that effective date; and to declare an emergency.

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

Section 1. That sections 2925.02, 3701.63, 3701.64, 3719.01, 3719.061, 4715.14, 4715.30, 4723.28, 4723.481, 4723.486, 4725.16, 4725.19, 4729.12, 4729.16, 4729.18, 4729.85, 4729.86, 4730.25, 4730.41, 4730.48, 4731.22, 4731.281, 4773.03, 4773.08, 5165.08, 5165.513, 5165.515, and 5165.99 be amended and sections 3701.66, 3701.67, 3701.68, and 3701.69 of the Revised Code be enacted to read as follows:

Sec. 2925.02. (A) No person shall knowingly do any of the following:

(1) By force, threat, or deception, administer to another or

induce or cause another to use a controlled substance;

(2) By any means, administer or furnish to another or induce or cause another to use a controlled substance with purpose to cause serious physical harm to the other person, or with purpose to cause the other person to become drug dependent;

(3) By any means, administer or furnish to another or induce or cause another to use a controlled substance, and thereby cause serious physical harm to the other person, or cause the other person to become drug dependent;

(4) By any means, do any of the following:

(a) Furnish or administer a controlled substance to a juvenile who is at least two years the offender's junior, when the offender knows the age of the juvenile or is reckless in that regard;

(b) Induce or cause a juvenile who is at least two years the offender's junior to use a controlled substance, when the offender knows the age of the juvenile or is reckless in that regard;

(c) Induce or cause a juvenile who is at least two years the offender's junior to commit a felony drug abuse offense, when the offender knows the age of the juvenile or is reckless in that regard;

(d) Use a juvenile, whether or not the offender knows the age of the juvenile, to perform any surveillance activity that is intended to prevent the detection of the offender or any other person in the commission of a felony drug abuse offense or to prevent the arrest of the offender or any other person for the commission of a felony drug abuse offense.

(5) By any means, furnish or administer a controlled substance to a pregnant woman or induce or cause a pregnant woman to use a controlled substance, when the offender knows that the

woman is pregnant or is reckless in that regard.

(B) Division (A)(1), (3), ~~or~~ (4)~~,~~ or (5) of this section does not apply to manufacturers, wholesalers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code.

(C) Whoever violates this section is guilty of corrupting another with drugs. The penalty for the offense shall be determined as follows:

(1) ~~Except as otherwise provided in this division, if~~ If the offense is a violation of division (A)(1), (2), (3), or (4) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the offender shall be punished as follows:

(a) Except as otherwise provided in division (C)(1)(b) of this section, corrupting another with drugs committed in those circumstances is a felony of the second degree~~,~~ and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. ~~If the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and~~

~~if~~

(b) If the offense was committed in the vicinity of a school, corrupting another with drugs committed in those circumstances is a felony of the first degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(2) ~~Except as otherwise provided in this division, if~~ If the offense is a violation of division (A)(1), (2), (3), or (4) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, the offender shall be punished as follows:

(a) Except as otherwise provided in division (C)(2)(b) of this section, corrupting another with drugs committed in those circumstances is a felony of the second degree~~,~~ and there is a presumption for a prison term for the offense. ~~If the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V and if~~

(b) If the offense was committed in the vicinity of a school, corrupting another with drugs committed in those circumstances is a felony of the second degree~~,~~ and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(3) ~~Except as otherwise provided in this division, if~~ If the offense is a violation of division (A)(1), (2), (3), or (4) of this section and the drug involved is marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the offender shall be punished as follows:

(a) Except as otherwise provided in division (C)(3)(b) of

this section, corrupting another with drugs committed in those circumstances is a felony of the fourth degree~~,~~ and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. ~~If the drug involved is marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and if~~

(b) If the offense was committed in the vicinity of a school, corrupting another with drugs committed in those circumstances is a felony of the third degree~~,~~ and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(4) If the offense is a violation of division (A)(5) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a felony of the first degree and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(5) If the offense is a violation of division (A)(5) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, corrupting another with drugs is a felony of the second degree and the court shall impose as a mandatory prison term one of the

prison terms prescribed for a felony of the second degree.

(6) If the offense is a violation of division (A)(5) of this section and the drug involved is marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a felony of the third degree and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(D) In addition to any prison term authorized or required by division (C) or (E) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section or the clerk of that court shall do all of the following that are applicable regarding the offender:

(1)(a) If the violation is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent.

(b) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, any mandatory fine imposed pursuant to division (D)(1)(a) of this section and any fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, division (F) of section 2925.03 of the Revised Code.

(c) If a person is charged with any violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the forfeited bail shall be paid by the clerk of the court pursuant to division (D)(1)(b) of this section as if it were a fine imposed for a violation of this section.

(2) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If an offender's driver's or commercial driver's license or permit is suspended pursuant to this division, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the suspension. Upon the filing of the motion and the court's finding of good cause for the termination, the court may terminate the suspension.

(3) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

(E) Notwithstanding the prison term otherwise authorized or required for the offense under division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, if the violation of division (A) of this section involves the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and

if the court imposing sentence upon the offender finds that the offender as a result of the violation is a major drug offender and is guilty of a specification of the type described in section 2941.1410 of the Revised Code, the court, in lieu of the prison term that otherwise is authorized or required, shall impose upon the offender the mandatory prison term specified in division (B)(3)(a) of section 2929.14 of the Revised Code.

Sec. 3701.63. (A) As used in this section and ~~section~~ sections 3701.64, 3701.66, and 3701.67 of the Revised Code:

(1) "Child day-care center," "type A family day-care home," and "licensed type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(2) "Child care facility" means a child day-care center, a type A family day-care home, or a licensed type B family day-care home.

(3) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(4) "Freestanding birthing center" has the same meaning as in section 3702.141 of the Revised Code.

~~(4)~~(5) "Hospital" means a hospital classified pursuant to rules adopted under section 3701.07 of the Revised Code as a general hospital or children's hospital and to which either of the following applies:

(a) The hospital has a maternity unit.

(b) The hospital receives for care infants who have been transferred to it from other facilities and who have never been discharged to their residences following birth.

~~(5)~~(6) "Infant" means a child who is less than one year of age.

(7) "Maternity unit" means ~~any unit or place in~~ the distinct portion of a hospital ~~where women are regularly received and provided care during all or part of the maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care~~ licensed as a maternity unit under Chapter 3711. of the Revised Code.

~~(6)~~(8) "Other person responsible for the infant" includes a foster caregiver.

(9) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. "Parent" also means a prospective adoptive parent with whom a child is placed.

~~(7)~~(10) "Shaken baby syndrome" means signs and symptoms, including, but not limited to, retinal hemorrhages in one or both eyes, subdural hematoma, or brain swelling, resulting from the violent shaking or the shaking and impacting of the head of an infant or small child.

(B) The director of health shall establish the shaken baby syndrome education program by doing all of the following:

(1) ~~By not later than one year after February 29, 2008, developing~~ Developing educational materials that present readily comprehendible information on shaken baby syndrome;

(2) Making available on the department of health web site in an easily accessible format the educational materials developed under division (B)(1) of this section;

(3) ~~Beginning in 2009, annually~~ Annually assessing the effectiveness of the shaken baby syndrome education program by evaluating the reports received pursuant to section 5101.135 of the Revised Code.

(C) In meeting the requirements under division (B) of this section, the director shall ~~not~~ develop educational materials that ~~will impose an~~, to the extent possible, minimize administrative or financial ~~burden~~ burdens on any of the entities or persons listed in section 3701.64 of the Revised Code.

Sec. 3701.64. (A) A copy of the shaken baby syndrome educational materials developed under section 3701.63 of the Revised Code shall be distributed in the following manner:

(1) By child birth educators and the staff of ~~pediatric physicians' offices and obstetricians~~ obstetricians' offices, to an expectant parent who uses their services;

(2) By the staff of pediatric physicians' offices, to any of the following who use their services: an infant's parent, guardian, or other person responsible for the infant;

(3) By the staff of a hospital or freestanding birthing center ~~in which a child is born~~, to ~~the child's~~ an infant's parent, guardian, or other person responsible for the infant, before the child is discharged from the facility to the infant's residence following birth;

~~(3)~~(4) By the staff of the "help me grow" program established pursuant to section 3701.61 of the Revised Code, to ~~the child's~~ an infant's parent, guardian, or other person responsible for the infant, during home-visiting services conducted in accordance with that section;

~~(4)~~(5) By each child care facility operating in this state, to each of its employees;

(6) By a public children services agency, when the agency has initial contact with an infant's parent, guardian, or other person responsible for the infant.

(B) ~~Each~~ An entity ~~and~~ or person required to distribute

educational materials pursuant to division (A) of this section is ~~immune from any~~ not liable for damages in a civil ~~and criminal liability~~ action for injury, death, or loss to person or property ~~resulting~~ that allegedly arises from an act or omission associated with the dissemination of~~, or failure to disseminate,~~ those educational materials unless the act or omission constitutes willful or wanton misconduct.

An entity or person required to distribute educational materials in accordance with division (A) of this section is not subject to criminal prosecution or, to the extent that a person is regulated under Title XLVII of the Revised Code, professional disciplinary action under that title, for an act or omission associated with the dissemination of those educational materials.

This division does not eliminate, limit, or reduce any other immunity or defense that an entity or person may be entitled to under Chapter 2744. of the Revised Code, or any other provision of the Revised Code, or the common law of this state.

Sec. 3701.66. (A) As used in this section, "sudden unexpected infant death" means the death of an infant that occurs suddenly and unexpectedly, the cause of which is not immediately obvious prior to investigation.

(B) The department of health shall establish the safe sleep education program by doing all of the following:

(1) By not later than sixty days after the effective date of this section, developing educational materials that present readily comprehendible information on safe sleeping practices for infants and possible causes of sudden unexpected infant death;

(2) Making available on the department's internet web site in an easily accessible format the educational materials developed under division (B)(1) of this section;

(3) Beginning in 2015, annually assessing the effectiveness of the safe sleep education program by evaluating the reports submitted by child fatality review boards to the department pursuant to section 307.626 of the Revised Code.

(C) In meeting the requirements under division (B) of this section, the department shall develop educational materials that, to the extent possible, minimize administrative or financial burdens on any of the entities or persons required by division (D) of this section to distribute the materials.

(D) A copy of the safe sleep educational materials developed under this section shall be distributed by entities and persons with and in the same manner as the shaken baby syndrome educational materials are distributed pursuant to section 3701.64 of the Revised Code.

An entity or person required to distribute the educational materials is not liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with the dissemination of those educational materials unless the act or omission constitutes willful or wanton misconduct.

An entity or person required to distribute the educational materials is not subject to criminal prosecution or, to the extent that a person is regulated under Title XLVII of the Revised Code, professional disciplinary action under that title, for an act or omission associated with the dissemination of those educational materials.

This division does not eliminate, limit, or reduce any other immunity or defense that an entity or person may be entitled to under Chapter 2744. of the Revised Code, or any other provision of the Revised Code, or the common law of this state.

(E) Each entity or person that is required to distribute the

educational materials and has infants regularly sleeping at a facility or location under the entity's or person's control shall adopt an internal infant safe sleep policy. The policy shall specify when and to whom educational materials on infant safe sleep practices are to be delivered to individuals working or volunteering at the facility or location and be consistent with the model internal infant safe sleep policy adopted under division (F) of this section.

(F) The director of health shall adopt a model internal infant safe sleep policy for use by entities and persons that must comply with division (E) of this section. The policy shall specify safe infant sleep practices, include images depicting safe infant sleep practices, and specify sample content for an infant safe sleep education program that entities and persons may use when conducting new staff orientation programs.

Sec. 3701.67. (A) As used in this section:

(1) "Contractor" means a person who provides personal services pursuant to a contract.

(2) "Critical access hospital" means a facility designated as a critical access hospital by the director of health under section 3701.073 of the Revised Code.

(3) "Crib" includes a portable play yard or other suitable sleeping place.

(B) Each hospital and freestanding birthing center shall implement an infant safe sleep screening procedure. The purpose of the procedure is to determine whether there will be a safe crib for an infant to sleep in once the infant is discharged from the facility to the infant's residence following birth. The procedure shall consist of questions that facility staff or volunteers must ask the infant's parent, guardian, or other person responsible for

the infant regarding the infant's intended sleeping place and environment.

The director of health shall develop questions that facilities may use when implementing the infant safe sleep screening procedure required by this division. The director may consult with persons and government entities that have expertise in infant safe sleep practices when developing the questions.

(C) If, prior to an infant's discharge from a facility to the infant's residence following birth, a facility other than a critical access hospital or a facility identified under division (D) of this section determines through the procedure implemented under division (B) of this section that the infant is unlikely to have a safe crib at the infant's residence, the facility shall make a good faith effort to arrange for the parent, guardian, or other person responsible for the infant to obtain a safe crib at no charge to that individual. In meeting this requirement, the facility may do any of the following:

(1) Obtain a safe crib with its own resources;

(2) Collaborate with or obtain assistance from persons or government entities that are able to procure a safe crib or provide money to purchase a safe crib;

(3) Refer the parent, guardian, or other person responsible for the infant to a person or government entity described in division (C)(2) of this section to obtain a safe crib free of charge from that source;

(4) If funds are available for the cribs for kids program or a successor program administered by the department of health, refer the parent, guardian, or other person responsible for the infant to a site, designated by the department for purposes of the program, at which a safe crib may be obtained at no charge.

(D) The director of health shall identify the facilities in

this state that are not critical access hospitals and are not served by a site described in division (C)(4) of this section. The director shall identify not less than annually the facilities that meet both criteria and notify those that do so.

(E) When a facility that is a hospital registers with the department of health under section 3701.07 of the Revised Code or a facility that is a freestanding birthing center renews its license in accordance with rules adopted under section 3702.30 of the Revised Code, the facility shall report the following information to the department in a manner the department prescribes:

(1) The number of safe cribs that the facility obtained and distributed by using its own resources as described in division (C)(1) of this section since the last time the facility reported this information to the department;

(2) The number of safe cribs that the facility obtained and distributed by collaborating with or obtaining assistance from another person or government entity as described in division (C)(2) of this section since the last time the facility reported this information to the department;

(3) The number of referrals that the facility made to a person or government entity as described in division (C)(3) of this section since the last time the facility reported this information to the department;

(4) The number of referrals that the facility made to a site designated by the department as described in division (C)(4) of this section since the last time the facility reported this information to the department;

(5) Demographic information specified by the director of health regarding the individuals to whom safe cribs were distributed as described in division (E)(1) or (2) of this section

or for whom a referral described in division (E)(3) or (4) of this section was made;

(6) In the case of a critical access hospital or a facility identified under division (D) of this section, demographic information specified by the director of health regarding each parent, guardian, or other person responsible for the infant determined to be unlikely to have a safe crib at the infant's residence pursuant to the procedure implemented under division (B) of this section;

(7) Any other information collected by the facility regarding infant sleep environments and intended infant sleep environments that the director determines to be appropriate.

(F) Not later than July 1 of each year beginning in 2015, the director of health shall prepare a written report that summarizes the information collected under division (E) of this section for the preceding twelve months and provides any other information the director considers appropriate for inclusion in the report. On completion, the report shall be submitted to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly.

(G) A facility, and any employee, contractor, or volunteer of a facility, that implements an infant safe sleep procedure in accordance with division (B) of this section is not liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with implementation of the procedure, unless the act or omission constitutes willful or wanton misconduct.

A facility, and any employee, contractor, or volunteer of a facility, that implements an infant safe sleep screening procedure in accordance with division (B) of this section is not subject to criminal prosecution or, to the extent that a person is regulated

under Title XLVII of the Revised Code, professional disciplinary action under that title, for an act or omission associated with implementation of the procedure.

This division does not eliminate, limit, or reduce any other immunity or defense that a facility, or an employee, contractor, or volunteer of a facility, may be entitled to under Chapter 2744. of the Revised Code, or any other provision of the Revised Code, or the common law of this state.

(H) A facility, and any employee, contractor, or volunteer of a facility, is neither liable for damages in a civil action, nor subject to criminal prosecution, for injury, death, or loss to person or property that allegedly arises from a crib obtained by a parent, guardian, or other person responsible for the infant as a result of any action the facility, employee, contractor, or volunteer takes to comply with division (C) of this section.

The immunity provided by this division does not require compliance with division (D) of section 2305.37 of the Revised Code.

Sec. 3701.68. (A) As used in this section:

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals.

(2) "State registrar" has the same meaning as in section 3705.01 of the Revised Code.

(B) There is hereby created the commission on infant mortality. The commission shall do all of the following:

(1) Conduct a complete inventory of services provided or administered by the state that are available to address the infant mortality rate in this state;

(2) For each service identified under division (B)(1) of this section, determine both of the following:

(a) The sources of the funds that are used to pay for the service;

(b) Whether the service and its funding sources have a connection with programs provided or administered by local or community-based public or private entities and, to the extent they do not, whether they should.

(3) With assistance from academic medical centers, track and analyze infant mortality rates by county for the purpose of determining the impact of state and local initiatives to reduce those rates.

(C) The commission shall consist of the following members:

(1) Two members of the senate, one from the majority party and one from the minority party, each appointed by the senate president;

(2) Two members of the house of representatives, one from the majority party and one from the minority party, each appointed by the speaker of the house of representatives;

(3) The executive director of the office of health transformation or the executive director's designee;

(4) The medicaid director or the director's designee;

(5) The director of health or the director's designee;

(6) The executive director of the commission on minority health or the executive director's designee;

(7) The attorney general or the attorney general's designee;

(8) A health commissioner of a city or general health district, appointed by the governor;

(9) A coroner, deputy coroner, or other person who conducts death scene investigations, appointed by the governor;

(10) An individual who represents the Ohio hospital

association, appointed by the association's president;

(11) An individual who represents the Ohio children's hospital association, appointed by the association's president;

(12) Two individuals who represent community-based programs that serve pregnant women or new mothers whose infants tend to be at a higher risk for infant mortality, appointed by the governor.

(D) The commission members described in divisions (C)(1), (2), (8), (9), (10), (11), and (12) of this section shall be appointed not later than thirty days after the effective date of this section. An appointed member shall hold office until a successor is appointed. A vacancy shall be filled in the same manner as the original appointment.

From among the members, the president of the senate and speaker of the house of representatives shall appoint two to serve as co-chairpersons of the commission.

A member shall serve without compensation except to the extent that serving on the commission is considered part of the member's regular duties of employment.

(E) The commission may request assistance from the staff of the legislative service commission.

(F) For purposes of division (B)(3) of this section, the state registrar shall ensure that the commission and academic medical centers located in this state have access to any electronic system of vital records the state registrar or department of health maintains, including the Ohio public health information warehouse. Not later than six months after the effective date of this section, the commission on infant mortality shall prepare a written report of its findings and recommendations concerning the matters described in division (B) of this section. On completion, the commission shall submit the report to the governor and, in accordance with section 101.68 of the Revised

Code, the general assembly.

(G) The president of the senate and speaker of the house of representatives shall determine the responsibilities of the commission following submission of the report under division (F) of this section.

(H) The commission is not subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 3701.69. (A)(1) The department of health shall create a Down syndrome information sheet that includes all of the following:

(a) A description of Down syndrome, including its causes, effects on development, and potential complications;

(b) Diagnostic tests;

(c) Options for treatment and therapy;

(d) Contact information for local, state, and national organizations that provide Down syndrome educational and support services and programs.

(2) With respect to the medical information included in the information sheet, the department shall include only information that is current and based on medical evidence.

(3) The department shall periodically review and update the information sheet and shall make it available on the department's internet web site.

(B) If a patient under the care of any of the following health care professionals or facilities receives either a test result indicating Down syndrome or a prenatal or postnatal diagnosis of Down syndrome, the health care professional or facility shall provide to the patient or the patient's representative a copy of the information sheet created under

division (A) of this section:

(1) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) A certified nurse-midwife who holds a certificate of authority issued under Chapter 4723. of the Revised Code;

(3) A genetic counselor licensed under Chapter 4778. of the Revised Code;

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

(5) A maternity unit, newborn care nursery, or maternity home licensed under Chapter 3711. of the Revised Code;

(6) A freestanding birthing center licensed under section 3702.30 of the Revised Code.

Sec. 3719.01. As used in this chapter:

(A) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person or an animal.

(B) "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

(C) "Controlled substance" means a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V.

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

(E) "Dispense" means to sell, leave with, give away, dispose of, or deliver.

(F) "Distribute" means to deal in, ship, transport, or deliver but does not include administering or dispensing a drug.

(G) "Drug" has the same meaning as in section 4729.01 of the Revised Code.

(H) "Drug abuse offense," "felony drug abuse offense," "cocaine," and "hashish" have the same meanings as in section 2925.01 of the Revised Code.

(I) "Federal drug abuse control laws" means the "Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 Stat. 1242, 21 U.S.C. 801, as amended.

(J) "Hospital" means an institution for the care and treatment of the sick and injured that is certified by the department of health and approved by the state board of pharmacy as proper to be entrusted with the custody of controlled substances and the professional use of controlled substances.

(K) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

(L) "Isomer," except as otherwise expressly stated, means the optical isomer.

(M) "Laboratory" means a laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

(N) "Manufacturer" means a person who manufactures a controlled substance, as "manufacture" is defined in section 3715.01 of the Revised Code.

(O) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or

preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

(P) "Narcotic drugs" means coca leaves, opium, isonipecaine, amidone, isoamidone, ketobemidone, as defined in this division, and every substance not chemically distinguished from them and every drug, other than cannabis, that may be included in the meaning of "narcotic drug" under the federal drug abuse control laws. As used in this division:

(1) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves, that does not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(2) "Isonipecaine" means any substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated.

(3) "Amidone" means any substance identified chemically as 4-4-diphenyl-6-dimethylamino-heptanone-3, or any salt thereof, by whatever trade name designated.

(4) "Isoamidone" means any substance identified chemically as 4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3, or any salt thereof, by whatever trade name designated.

(5) "Ketobemidone" means any substance identified chemically as 4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone hydrochloride, or any salt thereof, by whatever trade name designated.

(Q) "Official written order" means an order written on a form provided for that purpose by the director of the United States drug enforcement administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by federal law.

(R) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under section 3719.41 of the Revised Code, the dextrorotatory isomer of 3-methoxy-N-methylmorphinan and its salts (dextro-methorphan). "Opiate" does include its racemic and levoratory forms.

(S) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(T) "Person" means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, or other legal entity.

(U) "Pharmacist" means a person licensed under Chapter 4729. of the Revised Code to engage in the practice of pharmacy.

(V) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(W) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

(X) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(Y) "Licensed health professional authorized to prescribe drugs," "prescriber," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(Z) "Registry number" means the number assigned to each person registered under the federal drug abuse control laws.

(AA) "Sale" includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant, or employee.

(BB) "Schedule I," "schedule II," "schedule III," "schedule IV," and "schedule V" mean controlled substance schedules I, II, III, IV, and V, respectively, established pursuant to section 3719.41 of the Revised Code, as amended pursuant to section 3719.43 or 3719.44 of the Revised Code.

(CC) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced, or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in section 4729.01 of the Revised Code.

(DD) "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.

(EE) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

(FF) "Category III license" means a license issued to a terminal distributor of dangerous drugs as set forth in section 4729.54 of the Revised Code.

(GG) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(HH)(1) "Controlled substance analog" means, except as provided in division (HH)(2) of this section, a substance to which both of the following apply:

(a) The chemical structure of the substance is substantially similar to the structure of a controlled substance in schedule I or II.

(b) One of the following applies regarding the substance:

(i) The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(ii) With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(2) "Controlled substance analog" does not include any of the following:

(a) A controlled substance;

(b) Any substance for which there is an approved new drug application;

(c) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption;

(d) Any substance to the extent it is not intended for human consumption before the exemption described in division (HH)(2)(b) of this section takes effect with respect to that substance.

(II) "Benzodiazepine" means a controlled substance that has United States food and drug administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative,

triazolobenzodiazepine, or triazolobenzodiazepine derivative, including the following drugs and their varying salt forms or chemical congeners: alprazolam, chlordiazepoxide hydrochloride, clobazam, clonazepam, clorazepate, diazepam, estazolam, flurazepam hydrochloride, lorazepam, midazolam, oxazepam, quazepam, temazepam, and triazolam.

(JJ) "Opioid analgesic" means a controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxymorphone, tapentadol, and tramadol.

(KK) "Emergency facility" means a hospital emergency department or any other facility that provides emergency care.

Sec. 3719.061. (A)(1) As used in this section:

(a) "Another adult authorized to consent to the minor's medical treatment" means an adult to whom a minor's parent or guardian has given written authorization to consent to the minor's medical treatment.

(b) "Medical emergency" means a situation that in a prescriber's good faith medical judgment creates an immediate threat of serious risk to the life or physical health of a minor.

(c) "Minor" means an individual under eighteen years of age who is not emancipated.

(2) For purposes of this section, an individual under eighteen years of age is emancipated only if the individual has

married, has entered the armed services of the United States, ~~became~~ has become employed and self-sustaining, or ~~has~~ otherwise has become independent from the care and control of the individual's parent, guardian, or custodian.

(B) Except as provided in division (C) of this section, before issuing for a minor the first prescription in a single course of treatment for ~~a particular compound that is a controlled substance containing~~ an opioid analgesic, regardless of whether the dosage is modified during that course of treatment, a prescriber shall do all of the following:

(1) As part of the prescriber's examination of the minor, assess whether the minor has ever suffered, or is currently suffering, from mental health or substance abuse disorders and whether the minor has taken or is currently taking prescription drugs for treatment of those disorders;

(2) Discuss with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment all of the following:

(a) The risks of addiction and overdose associated with ~~the compound~~ opioid analgesics;

(b) The increased risk of addiction to controlled substances of individuals suffering from both mental and substance abuse disorders;

(c) The dangers of taking ~~controlled substances containing opioids~~ opioid analgesics with benzodiazepines, alcohol, or other central nervous system depressants;

(d) Any other information in the patient counseling information section of the labeling for the ~~compound~~ opioid analgesic required under 21 C.F.R. 201.57(c)(18).

(3) Obtain written consent for the prescription from the

minor's parent, guardian, or, subject to division (E) of this section, another adult authorized to consent to the minor's medical treatment.

The prescriber shall record the consent on a form, which shall be known as the "Start Talking!" consent form. The form shall be separate from any other document the prescriber uses to obtain informed consent for other treatment provided to the minor. The form shall contain all of the following:

(a) The name and quantity of the ~~compound~~ opioid analgesic being prescribed and the amount of the initial dose;

(b) A statement indicating that a controlled substance is a drug or other substance that the United States drug enforcement administration has identified as having a potential for abuse;

(c) A statement certifying that the prescriber discussed with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment the matters described in division (B)(2) of this section;

(d) The number of refills, if any, authorized by the prescription;

(e) The signature of the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment and the date of signing.

(C)(1) The requirements in division (B) of this section do not apply if the minor's treatment with ~~a compound that is a controlled substance containing~~ an opioid analgesic meets any of the following criteria:

(a) The treatment is associated with or incident to a medical emergency.

(b) The treatment is associated with or incident to surgery, regardless of whether the surgery is performed on an inpatient or

outpatient basis.

(c) In the prescriber's professional judgment, fulfilling the requirements of division (B) of this section with respect to the minor's treatment would be a detriment to the minor's health or safety.

(d) Except as provided in division (D) of this section, the treatment is rendered in a hospital, emergency facility, ambulatory surgical facility, nursing home, pediatric respite care program, residential care facility, freestanding rehabilitation facility, or similar institutional facility.

(2) The requirements in division (B) of this section do not apply to a prescription for ~~a compound that is a controlled substance containing~~ an opioid analgesic that a prescriber issues to a minor at the time of discharge from a facility or other location described in division (C)(1)(d) of this section.

(D) The exemption in division (C)(1)(d) of this section does not apply to treatment rendered in a prescriber's office that is located on the premises of or adjacent to a facility or other location described in that division.

(E) If the individual who signs the consent form required by division (B)(3) of this section is another adult authorized to consent to the minor's medical treatment, the prescriber shall prescribe not more than a single, seventy-two-hour supply and indicate on the prescription the quantity that is to be dispensed pursuant to the prescription.

(F) A signed "Start Talking!" consent form obtained under this section shall be maintained in the minor's medical record.

Sec. 4715.14. (A)(1) Each person who is licensed to practice dentistry in Ohio shall, on or before the first day of January of each even-numbered year, register with the state dental board. The

registration shall be made on a form prescribed by the board and furnished by the secretary, shall include the licensee's name, address, license number, and such other reasonable information as the board may consider necessary, and shall include payment of a biennial registration fee of two hundred forty-five dollars. Except as provided in division (E) of this section, this fee shall be paid to the treasurer of state. Subject to division (C) of this section, a registration shall be in effect for the two-year period beginning on the first day of January of the even-numbered year and ending on the last day of December of the following odd-numbered year, and shall be renewed in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, in the case of a licensee seeking registration who prescribes or personally furnishes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the licensee shall certify to the board whether the licensee has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (A)(2)(a) of this section does not apply if ~~either~~ any of the following is the case:

(i) The state board of pharmacy notifies the state dental board pursuant to section 4729.861 of the Revised Code that the licensee has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The licensee does not practice dentistry in this state.

(3) If a licensee certifies to the state dental board that

the licensee has been granted access to the drug database and the board finds through an audit or other means that the licensee has not been granted access, the board may take action under section 4715.30 of the Revised Code.

(B) A licensed dentist who desires to temporarily retire from practice and who has given the board notice in writing to that effect shall be granted such a retirement, provided only that at that time all previous registration fees and additional costs of reinstatement have been paid.

(C) Not later than the thirty-first day of January of an even-numbered year, the board shall send a notice by certified mail to a dentist who fails to renew a license in accordance with division (A) of this section. The notice shall state all of the following:

(1) That the board has not received the registration form and fee described in that division;

(2) That the license shall remain valid and in good standing until the first day of April following the last day of December of the odd-numbered year in which the dentist was scheduled to renew if the dentist remains in compliance with all other applicable provisions of this chapter and any rule adopted under it;

(3) That the license may be renewed until the first day of April following the last day of December of the odd-numbered year in which the dentist was scheduled to renew by the payment of the biennial registration fee and an additional fee of one hundred dollars to cover the cost of late renewal;

(4) That unless the board receives the registration form and fee before the first day of April following the last day of December of the odd-numbered year in which the dentist was scheduled to renew, the board may, on or after the relevant first day of April, initiate disciplinary action against the dentist

pursuant to Chapter 119. of the Revised Code;

(5) That a dentist whose license has been suspended as a result of disciplinary action initiated pursuant to division (C)(4) of this section may be reinstated by the payment of the biennial registration fee and an additional fee of three hundred dollars to cover the cost of reinstatement.

(D) Each dentist licensed to practice, whether a resident or not, shall notify the secretary in writing or electronically of any change in the dentist's office address or employment within ten days after such change has taken place. On the first day of July of every even-numbered year, the secretary shall issue a printed roster of the names and addresses so registered.

(E) Twenty dollars of each biennial registration fee shall be paid to the dentist loan repayment fund created under section 3702.95 of the Revised Code.

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

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

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

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

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

(5) 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;

(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of a misdemeanor committed in the course of practice;

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

(8) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes, or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(9) Providing or allowing dental hygienists, expanded function dental auxiliaries, or other practitioners of auxiliary dental occupations working under the certificate or license holder's supervision, or a dentist holding a temporary limited continuing education license under division (C) of section 4715.16 of the Revised Code working under the certificate or license holder's direct supervision, to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results;

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

(11) Violation of any provision of this chapter or any rule

adopted thereunder;

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

(13) Except as provided in division (H) of this section, either of the following:

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

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

(14) Failure to comply with section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(16) Failure to cooperate in an investigation conducted by the board under division (D) of section 4715.03 of the Revised

Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(17) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

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

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

(1) Censure the license or certificate holder;

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

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

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

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

(3) Suspend the certificate or license;

(4) Revoke the certificate or license.

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

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

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

Failure to comply with an order for an examination shall be grounds for refusal of a license or certificate or summary

suspension of a license or certificate under division (E) of this section.

(E) If a license or certificate holder has failed to comply with an order under division (D) of this section, the board may apply to the court of common pleas of the county in which the holder resides for an order temporarily suspending the holder's license or certificate, without a prior hearing being afforded by the board, until the board conducts an adjudication hearing pursuant to Chapter 119. of the Revised Code. If the court temporarily suspends a holder's license or certificate, the board shall give written notice of the suspension personally or by certified mail to the license or certificate holder. Such notice shall inform the license or certificate holder of the right to a hearing pursuant to Chapter 119. of the Revised Code.

(F) Any holder of a certificate or license issued under this chapter who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for intervention in lieu of conviction entered against the holder in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for treatment or intervention in lieu of conviction entered against the holder in another jurisdiction for any substantially equivalent criminal offense, is automatically suspended from practice under this chapter in this state and any certificate or license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea, conviction, or judicial finding, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's certificate or license under this division shall be

considered practicing without a certificate or license. The board shall notify the suspended individual of the suspension of the individual's certificate or license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate or license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the individual's certificate or license.

(G) If the supervisory investigative panel determines both of the following, the panel may recommend that the board suspend an individual's certificate or license without a prior hearing:

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

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than four dentist members of the board and seven of its members in total, excluding any member on the supervisory investigative panel, may suspend a certificate or license without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

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

otherwise agreed to by both the board and the individual.

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

(H) Sanctions shall not be imposed under division (A)(13) of this section against any certificate or license holder who waives deductibles and copayments as follows:

(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 who holds a certificate or license issued pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

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

(J) The board may share any information it receives pursuant to an investigation under division (D) of section 4715.03 of the Revised Code, including patient records and patient record

information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state dental board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state dental board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions if it finds that a person committed fraud in passing an examination required to obtain a license, certificate of authority, or dialysis technician certificate issued by the board or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license, certificate of authority, or dialysis technician certificate issued by the board: deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred

dollars per violation.

(B) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

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

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

(3) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;

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

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

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

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

(9) Habitual or excessive use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs the individual's ability to provide safe nursing care or safe dialysis care;

(10) Impairment of the ability to practice according to

acceptable and prevailing standards of safe nursing care or safe dialysis care because of the use of drugs, alcohol, or other chemical substances;

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

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

(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;

(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;

(21) In the case of a licensed practical nurse, engaging in

activities that exceed the practice of nursing as a licensed practical nurse;

(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;

(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;

(24) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, except as provided in division (M) of this section, either of the following:

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

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

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

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

(27) In the case of a certified registered nurse anesthetist,

clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

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

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

(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;

(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;

(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:

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

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

demeaning.

(33) Assisting suicide~~,~~ as defined in section 3795.01 of the Revised Code;

(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

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

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

section.

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

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

dialysis technician does not request an adjudication, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case shall be deemed not to have occurred, sealing of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction.

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

(F) The board may investigate an individual's criminal background in performing its duties under this section. As part of such investigation, the board may order the individual to submit, at the individual's expense, a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records in accordance with the procedure described in section 4723.091 of the Revised Code.

(G) During the course of an investigation conducted under this section, the board may compel any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability to provide safe nursing care.

Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

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

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

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

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

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

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

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

(4) Any board activity that involves continued monitoring of an individual as part of or following any disciplinary action taken under this section shall be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the board with respect to the board's monitoring activities is not subject to discovery in any civil action and is confidential, except that the board may disclose information to law enforcement officers and government entities for purposes of an investigation of a licensee or certificate holder.

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

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

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

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

(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 licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

Sec. 4723.481. This section establishes standards and

conditions regarding the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe drugs and therapeutic devices under a certificate to prescribe issued under section 4723.48 of the Revised Code.

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

(B) The prescriptive authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

(C)(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 and addiction services 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 3721.09 of the Revised Code;

(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;

(g) A community mental health services provider, as defined in section 5122.01 of the Revised Code;

(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;

(i) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;

(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;

(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(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;

(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.

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C)(2) of this section.

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

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

(1) The amount of the sample furnished shall not exceed a

seventy-two-hour supply, except when the minimum available quantity of the sample is packaged in an amount that is greater than a seventy-two-hour supply, in which case the packaged amount may be furnished.

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

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

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

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

(2) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not furnish the drugs and devices in locations other than a health department 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, a federally funded comprehensive primary care clinic, or a nonprofit health care clinic or program.

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

(G) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall comply with section 3719.061 of the Revised Code if the nurse prescribes for a minor, as defined in that section, ~~a compound that is a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

Sec. 4723.486. (A) A certificate to prescribe issued under section 4723.48 of the Revised Code that is not issued as an externship certificate is valid for two years, unless otherwise provided in rules adopted under section 4723.50 of the Revised Code or earlier suspended or revoked by the board. The board of nursing shall renew certificates to prescribe according to procedures and a renewal schedule established in rules adopted under section 4723.50 of the Revised Code.

(B) Except as provided in division (C) of this section, the board may renew a certificate to prescribe if the holder submits to the board all of the following:

(1) Evidence of having completed during the previous two years at least twelve hours of continuing education in advanced pharmacology, or, if the certificate has been held for less than a full renewal period, the number of hours required by the board in rules adopted under section 4723.50 of the Revised Code;

(2) The fee required under section 4723.08 of the Revised Code for renewal of a certificate to prescribe;

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

(C)(1) Except as provided in division (C)(2) of this section, in the case of a certificate holder seeking renewal who prescribes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the holder shall certify to the board

whether the holder has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(2) The requirement in division (C)(1) of this section does not apply if ~~either~~ any of the following is the case:

(a) The state board of pharmacy notifies the board of nursing pursuant to section 4729.861 of the Revised Code that the certificate holder has been restricted from obtaining further information from the drug database.

(b) The state board of pharmacy no longer maintains the drug database.

(c) The certificate holder does not practice nursing in this state.

(3) If a certificate holder certifies to the board of nursing that the holder has been granted access to the drug database and the board finds through an audit or other means that the holder has not been granted access, the board may take action under section 4723.28 of the Revised Code.

(D) The continuing education in pharmacology required under division (B)(1) of this section must be received from an accredited institution recognized by the board. The hours of continuing education required are in addition to any other continuing education requirement that must be completed pursuant to this chapter.

Sec. 4725.16. (A)(1) Each certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents certificate issued by the state board of optometry shall expire annually on the last day of December, and may be renewed in accordance with this section and the standard renewal procedure established under Chapter 4745. of the Revised

Code.

(2) An optometrist seeking to continue to practice optometry shall file with the board an application for license renewal. The application shall be in such form and require such pertinent professional biographical data as the board may require.

(3)(a) Except as provided in division (A)(3)(b) of this section, in the case of an optometrist seeking renewal who holds a ~~topical ocular~~ therapeutic pharmaceutical agents certificate and who prescribes or personally furnishes analgesic controlled substances authorized pursuant to section 4725.091 of the Revised Code that are opioid analgesics ~~or benzodiazepines~~, as defined in section 3719.01 of the Revised Code, the optometrist shall certify to the board whether the optometrist has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (A)(3)(a) of this section does not apply if ~~either~~ any of the following is the case:

(i) The state board of pharmacy notifies the state board of optometry pursuant to section 4729.861 of the Revised Code that the certificate holder has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The certificate holder does not practice optometry in this state.

(c) If an optometrist certifies to the state board of optometry that the optometrist has been granted access to the drug database and the board finds through an audit or other means that the optometrist has not been granted access, the board may take action under section 4725.19 of the Revised Code.

(B) All licensed optometrists shall annually complete continuing education in subjects relating to the practice of optometry, to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure comprehensive care to the public. The board shall prescribe by rule the continuing optometric education that licensed optometrists must complete. The length of study shall be twenty-five clock hours each year, including ten clock hours of instruction in pharmacology to be completed by all licensed optometrists.

Unless the continuing education required under this division is waived or deferred under division (D) of this section, the continuing education must be completed during the twelve-month period beginning on the first day of October and ending on the last day of September. If the board receives notice from a continuing education program indicating that an optometrist completed the program after the last day of September, and the optometrist wants to use the continuing education completed after that day to renew the license that expires on the last day of December of that year, the optometrist shall pay the penalty specified under section 4725.34 of the Revised Code for late completion of continuing education.

At least once annually, the board shall post on its web site and shall mail, or send by electronic mail, to each licensed optometrist a list of courses approved in accordance with standards prescribed by board rule. Upon the request of a licensed optometrist, the executive director of the board shall supply a list of additional courses that the board has approved subsequent to the most recent web site posting, electronic mail transmission, or mailing of the list of approved courses.

(C)(1) Annually, not later than the first day of November, the board shall mail or send by electronic mail a notice regarding

license renewal to each licensed optometrist who may be eligible for renewal. The notice shall be sent to the optometrist's most recent electronic mail or mailing address shown in the board's records. If the board knows that the optometrist has completed the required continuing optometric education for the year, the board may include with the notice an application for license renewal.

(2) Filing a license renewal application with the board shall serve as notice by the optometrist that the continuing optometric education requirement has been successfully completed. If the board finds that an optometrist has not completed the required continuing optometric education, the board shall disapprove the optometrist's application. The board's disapproval of renewal is effective without a hearing, unless a hearing is requested pursuant to Chapter 119. of the Revised Code.

(3) The board shall refuse to accept an application for renewal from any applicant whose license is not in good standing or who is under disciplinary review pursuant to section 4725.19 of the Revised Code.

(4) Notice of an applicant's failure to qualify for renewal shall be served upon the applicant by mail. The notice shall be sent not later than the fifteenth day of November to the applicant's last address shown in the board's records.

(D) In cases of certified illness or undue hardship, the board may waive or defer for up to twelve months the requirement of continuing optometric education, except that in such cases the board may not waive or defer the continuing education in pharmacology required to be completed by optometrists who hold topical ocular pharmaceutical agents certificates or therapeutic pharmaceutical agents certificates. The board shall waive the requirement of continuing optometric education for any optometrist who is serving on active duty in the armed forces of the United States or a reserve component of the armed forces of the United

States, including the Ohio national guard or the national guard of any other state or who has received an initial certificate of licensure during the nine-month period which ended on the last day of September.

(E) An optometrist whose renewal application has been approved may renew each certificate held by paying to the treasurer of state the fees for renewal specified under section 4725.34 of the Revised Code. On payment of all applicable fees, the board shall issue a renewal of the optometrist's certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents certificate, as appropriate.

(F) Not later than the fifteenth day of December, the board shall mail or send by electronic mail a second notice regarding license renewal to each licensed optometrist who may be eligible for renewal but did not respond to the notice sent under division (C)(1) of this section. The notice shall be sent to the optometrist's most recent electronic mail or mailing address shown in the board's records. If an optometrist fails to file a renewal application after the second notice is sent, the board shall send a third notice regarding license renewal prior to any action under division (I) of this section to classify the optometrist's certificates as delinquent.

(G) The failure of an optometrist to apply for license renewal or the failure to pay the applicable annual renewal fees on or before the date of expiration, shall automatically work a forfeiture of the optometrist's authority to practice optometry in this state.

(H) The board shall accept renewal applications and renewal fees that are submitted from the first day of January to the last day of April of the year next succeeding the date of expiration. An individual who submits such a late renewal application or fee shall pay the late renewal fee specified in section 4725.34 of the

Revised Code.

(I)(1) If the certificates issued by the board to an individual have expired and the individual has not filed a complete application during the late renewal period, the individual's certificates shall be classified in the board's records as delinquent.

(2) Any optometrist subject to delinquent classification may submit a written application to the board for reinstatement. For reinstatement to occur, the applicant must meet all of the following conditions:

(a) Submit to the board evidence of compliance with board rules requiring continuing optometric education in a sufficient number of hours to make up for any delinquent compliance;

(b) Pay the renewal fees for the year in which application for reinstatement is made and the reinstatement fee specified under division (A)(8) of section 4725.34 of the Revised Code;

(c) Pass all or part of the licensing examination accepted by the board under section 4725.11 of the Revised Code as the board considers appropriate to determine whether the application for reinstatement should be approved;

(d) If the applicant has been practicing optometry in another state or country, submit evidence that the applicant's license to practice optometry in the other state or country is in good standing.

(3) The board shall approve an application for reinstatement if the conditions specified in division (I)(2) of this section are met. An optometrist who receives reinstatement is subject to the continuing education requirements specified under division (B) of this section for the year in which reinstatement occurs.

Sec. 4725.19. (A) In accordance with Chapter 119. of the

Revised Code and by an affirmative vote of a majority of its members, the state board of optometry, for any of the reasons specified in division (B) of this section, shall refuse to grant a certificate of licensure to an applicant and may, with respect to a licensed optometrist, do one or more of the following:

(1) Suspend the operation of any certificate of licensure, topical ocular pharmaceutical agents certificate, or therapeutic pharmaceutical agents certificate, or all certificates granted by it to the optometrist;

(2) Permanently revoke any or all of the certificates;

(3) Limit or otherwise place restrictions on any or all of the certificates;

(4) Reprimand the optometrist;

(5) Impose a monetary penalty. If the reason for which the board is imposing the penalty involves a criminal offense that carries a fine under the Revised Code, the penalty shall not exceed the maximum fine that may be imposed for the criminal offense. In any other case, the penalty imposed by the board shall not exceed five hundred dollars.

(6) Require the optometrist to take corrective action courses.

The amount and content of corrective action courses shall be established by the board in rules adopted under section 4725.09 of the Revised Code.

(B) The sanctions specified in division (A) of this section may be taken by the board for any of the following reasons:

(1) Committing fraud in passing the licensing examination or making false or purposely misleading statements in an application for a certificate of licensure;

(2) Being at any time guilty of immorality, regardless of the

jurisdiction in which the act was committed;

(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;

(4) Being at any time guilty of a felony, regardless of the jurisdiction in which the act was committed;

(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;

(6) Violating the conditions of any limitation or other restriction placed by the board on any certificate issued by the board;

(7) Engaging in the practice of optometry as provided in division (A)(1), (2), or (3) of section 4725.01 of the Revised Code when the certificate authorizing that practice is under suspension, in which case the board shall permanently revoke the certificate;

(8) Being denied a license to practice optometry in another state or country or being subject to any other sanction by the optometric licensing authority of another state or country, other than sanctions imposed for the nonpayment of fees;

(9) Departing from or failing to conform to acceptable and prevailing standards of care in the practice of optometry as followed by similar practitioners under the same or similar circumstances, regardless of whether actual injury to a patient is established;

(10) Failing to maintain comprehensive patient records;

(11) Advertising a price of optical accessories, eye examinations, or other products or services by any means that would deceive or mislead the public;

(12) Being addicted to the use of alcohol, stimulants,

narcotics, or any other substance which impairs the intellect and judgment to such an extent as to hinder or diminish the performance of the duties included in the person's practice of optometry;

(13) Engaging in the practice of optometry as provided in division (A)(2) or (3) of section 4725.01 of the Revised Code without authority to do so or, if authorized, in a manner inconsistent with the authority granted;

(14) Failing to make a report to the board as required by division (A) of section 4725.21 or section 4725.31 of the Revised Code;

(15) Soliciting patients from door to door or establishing temporary offices, in which case the board shall suspend all certificates held by the optometrist;

(16) Except as provided in division (D) of this section:

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

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

(17) Failing to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an analgesic controlled substance authorized pursuant to section 4725.091 of the Revised Code that is an opioid analgesic, as defined in

section 3719.01 of the Revised Code.

(C) Any person who is the holder of a certificate of licensure, or who is an applicant for a certificate of licensure against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing before the board in accordance with Chapter 119. of the Revised Code.

(D) Sanctions shall not be imposed under division (B)(16) of this section against any optometrist who waives deductibles and copayments:

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

(2) For professional services rendered to any other optometrist licensed by the board, to the extent allowed by sections 4725.01 to 4725.34 of the Revised Code and the rules of the board.

Sec. 4729.12. An identification card issued by the state board of pharmacy under section 4729.08 of the Revised Code entitles the individual to whom it is issued to practice as a pharmacist or as a pharmacy intern in this state until the next annual renewal date.

Identification cards shall be renewed annually on the fifteenth day of September, according to the standard renewal procedure of Chapter 4745. of the Revised Code.

Each pharmacist and pharmacy intern shall carry the identification card or renewal identification card while engaged in the practice of pharmacy. The license shall be conspicuously exposed at the principal place where the pharmacist or pharmacy

intern practices pharmacy.

A pharmacist or pharmacy intern who desires to continue in the practice of pharmacy shall file with the board an application in such form and containing such data as the board may require for renewal of an identification card. ~~An~~ In the case of a pharmacist who dispenses or plans to dispense controlled substances in this state, the pharmacist shall certify, as part of the application, that the pharmacist has been granted access to the drug database established and maintained by the board pursuant to section 4729.75 of the Revised Code, unless the board has restricted the pharmacist from obtaining further information from the database or the board no longer maintains the database. If the pharmacist certifies to the board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the pharmacist has not been granted access, the board may take action under section 4729.16 of the Revised Code.

An application filed under this section for renewal of an identification card may not be withdrawn without the approval of the board. ~~If~~

If the board finds that ~~the~~ an applicant's identification card has not been revoked or placed under suspension and that the applicant has paid the renewal fee, has continued pharmacy education in accordance with the rules of the board, ~~has been granted access to the drug database established and maintained by the board pursuant to section 4729.75 of the Revised Code (unless the board has restricted the applicant from obtaining any further information from the database or the board no longer maintains the database),~~ and is entitled to continue in the practice of pharmacy, the board shall issue a renewal identification card to the applicant.

When an identification card has lapsed for more than sixty days but application is made within three years after the

expiration of the card, the applicant shall be issued a renewal identification card without further examination if the applicant meets the requirements of this section and pays the fee designated under division (A)(5) of section 4729.15 of the Revised Code.

Sec. 4729.16. (A) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense, or in the case of a violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of not more than five hundred dollars, if the board finds a pharmacist or pharmacy intern:

(1) Guilty of a felony or gross immorality;

(2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;

(3) Addicted to or abusing ~~liquor~~ alcohol or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;

(4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;

(5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions;

(6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;

(7) Guilty of knowingly lending the pharmacist's or pharmacy

intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;

(8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;

(9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;

(10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code.

(B) Any individual whose identification card is revoked, suspended, or refused, shall return the identification card and license to the offices of the state board of pharmacy within ten days after receipt of notice of such action.

(C) As used in this section:

"Unprofessional conduct in the practice of pharmacy" includes any of the following:

(1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;

(2) Except as provided in section 4729.281 of the Revised Code, the sale of any drug for which a prescription is required, without having received a prescription for the drug;

(3) Knowingly dispensing medication pursuant to false or forged prescriptions;

(4) Knowingly failing to maintain complete and accurate records of all dangerous drugs received or dispensed in compliance

with federal laws and regulations and state laws and rules;

(5) Obtaining any remuneration by fraud, misrepresentation, or deception.

(D) The board may suspend a license or identification card under division (B) of section 3719.121 of the Revised Code by utilizing a telephone conference call to review the allegations and take a vote.

(E) If, pursuant to an adjudication under Chapter 119. of the Revised Code, the board has reasonable cause to believe that a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the pharmacist or pharmacy intern to submit to a physical or mental examination, or both.

Sec. 4729.18. The state board of pharmacy shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for approving and designating physicians and facilities as treatment providers for pharmacists with substance abuse problems and shall approve and designate treatment providers in accordance with the rules. The rules shall include standards for both inpatient and outpatient treatment. The rules shall provide that to be approved, a treatment provider must be capable of making an initial examination to determine the type of treatment required for a pharmacist with substance abuse problems. Subject to the rules, the board shall review and approve treatment providers on a regular basis and may, at its discretion, withdraw or deny approval.

An approved treatment provider shall:

(A) Report to the board the name of any pharmacist suffering or showing evidence of suffering impairment by reason of being addicted to or abusing ~~liquor~~ alcohol or drugs as described in division (A)(3) of section 4729.16 of the Revised Code who fails

to comply within one week with a referral for examination;

(B) Report to the board the name of any impaired pharmacist who fails to enter treatment within forty-eight hours following the provider's determination that the pharmacist needs treatment;

(C) Require every pharmacist who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare;

(D) Require a pharmacist to suspend practice on entering any required inpatient treatment;

(E) Report to the board any failure by an impaired pharmacist to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare;

(F) Report to the board the resumption of practice of any impaired pharmacist before the treatment provider has made a clear determination that the pharmacist is capable of practicing according to acceptable and prevailing standards;

(G) Require a pharmacist who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for approval of treatment providers;

(H) Report to the board any pharmacist who suffers a relapse at any time during or following aftercare.

Any pharmacist who enters into treatment by an approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the treatment provider from making reports required under this section.

In the absence of fraud or bad faith, no professional association of pharmacists licensed under this chapter that

sponsors a committee or program to provide peer assistance to pharmacists with substance abuse problems, no representative or agent of such a committee or program, and no member of the state board of pharmacy shall be liable to any person for damages in a civil action by reason of actions taken to refer a pharmacist to a treatment provider designated by the board or actions or omissions of the provider in treating a pharmacist.

In the absence of fraud or bad faith, no person who reports to the board a pharmacist with a suspected substance abuse problem shall be liable to any person for damages in a civil action as a result of the report.

Sec. 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 prepare reports regarding the database and present or submit them in accordance with both of the following:

(A) 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.

(B) The board shall submit a semiannual report to the governor, the president of the senate, the speaker of the house of representatives, the attorney general, the chairpersons of the standing committees of the house of representatives and the senate that are primarily responsible for considering health and human services issues, the department of public safety, the state dental board, the board of nursing, the state board of optometry, the state medical board, and the state veterinary medical licensing board. The state board of pharmacy shall make the report available to the public on its internet web site. Each report submitted shall include all of the following for the period covered by the report:

(1) An aggregate of the information submitted to the board under section 4729.77 of the Revised Code regarding prescriptions for controlled substances containing opioids, including all of the following:

(a) The number of prescribers who issued the prescriptions;

(b) The number of patients to whom the controlled substances were dispensed;

(c) The average quantity of the controlled substances dispensed per prescription;

(d) The average daily morphine equivalent dose of the controlled substances dispensed per prescription.

(2) An aggregate of the information submitted to the board under section 4729.79 of the Revised Code regarding controlled substances containing opioids that have been personally furnished to a patient by a prescriber, other than a prescriber who is a veterinarian, including all of the following:

(a) The number of prescribers who personally furnished the controlled substances;

(b) The number of patients to whom the controlled substances were personally furnished;

(c) The average quantity of the controlled substances that were furnished at one time;

(d) The average daily morphine equivalent dose of the controlled substances that were furnished at one time.

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

(A)(1) No person identified in divisions (A)(1) to (12) or (B) of section 4729.80 of the Revised Code shall disseminate any written or electronic information the person receives from the drug database or otherwise provide another person access to the information that the person receives from the database, except as follows:

(a) When necessary in the investigation or prosecution of a possible or alleged criminal offense;

(b) When a person provides the information to the prescriber or pharmacist for whom the person is approved by the board to serve as a delegate of the prescriber or pharmacist for purposes of requesting and receiving information from the drug database under division (A)(5) or (6) of section 4729.80 of the Revised Code;

(c) When a prescriber or pharmacist provides the information to a person who is approved by the board to serve as such a delegate of the prescriber or pharmacist;

(d) When a prescriber or pharmacist provides the information to a patient or patient's personal representative;

(e) When a prescriber or pharmacist includes the information in a medical record, as defined in section 3701.74 of the Revised

Code.

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

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

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

(C)(1) Except as provided in division (C)(2) of this section, after providing notice and affording an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, the board may restrict a person from obtaining further information from the drug database if any of the following is the case:

(a) The person violates division (A)(1), (2), or (3) of this section;

(b) The person is a requestor identified in division (A)(13) of section 4729.80 of the Revised Code and the board determines that the person's actions in another state would have constituted a violation of division (A)(1), (2), or (3) of this section;

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

(d) The person creates, by clear and convincing evidence, a threat to the security of information contained in the database.

(2) If the board determines that allegations regarding a person's actions warrant restricting the person from obtaining further information from the drug database without a prior hearing, the board may summarily impose the restriction. A

telephone conference call may be used for reviewing the allegations and taking a vote on the summary restriction. The summary restriction shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective.

(3) The board shall determine the extent to which the person is restricted from obtaining further information from the database.

Sec. 4730.25. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as a physician assistant or a certificate to prescribe to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(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 as a physician assistant or certificate to prescribe, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

(1) Failure to practice in accordance with the conditions under which the supervising physician's supervision agreement with the physician assistant was approved, including the requirement that when practicing under a particular supervising physician, the physician assistant must practice only according to the physician supervisory plan the board approved for that physician or the policies of the health care facility in which the supervising physician and physician assistant are practicing;

(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the

board;

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;

(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(6) Administering drugs for purposes other than those authorized under this chapter;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a certificate to practice as a physician assistant, a certificate to prescribe, or approval of a supervision agreement.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to

misunderstand or be deceived.

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

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

(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 felony;

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

(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 committed in the course of practice;

(14) 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;

(15) 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;

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

(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including

trafficking in drugs;

(18) Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(19) A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established;

(20) Violation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory plan, or supervision agreement;

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

(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(23) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(24) Prescribing any drug or device to perform or induce an

abortion, or otherwise performing or inducing an abortion;

(25) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

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

(D) For purposes of divisions (B)(12), (15), and (16) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under the provisions of this section or upon the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a

judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a certificate issued under this chapter, or applies for a certificate issued under this chapter, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(4) of this section, the board, upon a showing of a possible violation, may compel any individual who holds a certificate issued under this chapter or who has applied for a certificate pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a physician assistant unable to practice because of the reasons set forth in division (B)(4) of this section, the board shall require the physician assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate. An individual affected under this division shall be

afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(5) of this section, if the board has reason to believe that any individual who holds a certificate issued under this chapter or any applicant for a certificate suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

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

Before being eligible to apply for reinstatement of a certificate suspended under this division, the physician assistant shall demonstrate to the board the ability to resume practice or prescribing in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

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

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

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

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

When the impaired physician assistant resumes practice or prescribing, the board shall require continued monitoring of the physician assistant. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the physician assistant has maintained sobriety.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that a physician assistant has violated division (B) of this section and that the individual's continued practice or prescribing presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice or prescribe without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate

without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the physician assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the physician assistant requests the hearing, unless otherwise agreed to by both the board and the certificate holder.

A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the certificate to practice or prescribe. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board

finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to a physician assistant and the physician assistant's practice in this state are automatically suspended as of the date the physician assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another state for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate to practice.

(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the

board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the physician assistant's certificate may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant to an applicant a certificate to practice as a physician assistant or a certificate to prescribe, revokes an individual's certificate, refuses to issue a certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold the certificate and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

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

(2) An application made under this chapter for a certificate, approval of a physician supervisory plan, or approval of a supervision agreement may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate in

accordance with section 4730.14 or section 4730.48 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4730.41. (A) A certificate to prescribe issued under this chapter authorizes a physician assistant to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority.

(B) In exercising physician-delegated prescriptive authority, a physician assistant is subject to all of the following:

(1) The physician assistant shall exercise physician-delegated prescriptive authority only to the extent that the physician supervising the physician assistant has granted that authority.

(2) The physician assistant shall comply with all conditions placed on the physician-delegated prescriptive authority, as specified by the supervising physician who is supervising the physician assistant in the exercise of physician-delegated prescriptive authority.

(3) If the physician assistant possesses physician-delegated prescriptive authority for controlled substances, the physician assistant shall register with the federal drug enforcement administration.

(4) If the physician assistant possesses physician-delegated prescriptive authority for schedule II controlled substances, the physician assistant shall comply with section 4730.411 of the Revised Code.

(5) If the physician assistant possesses physician-delegated prescriptive authority to prescribe for a minor an opioid analgesic, as those terms are defined in ~~section~~ sections 3719.061 and 3719.01 of the Revised Code, ~~a compound that is a controlled~~

~~substance containing an opioid~~ respectively, the physician assistant shall comply with section 3719.061 of the Revised Code.

Sec. 4730.48. (A)(1) Except in the case of a provisional certificate to prescribe, a physician assistant's certificate to prescribe expires on the same date as the physician assistant's certificate to practice as a physician assistant, as provided in section 4730.14 of the Revised Code. The certificate to prescribe may be renewed in accordance with this section.

(2) A person seeking to renew a certificate to prescribe shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the certificate. The state medical board shall send renewal notices at least one month prior to the expiration date. The notice may be sent as part of the notice sent for renewal of the certificate to practice.

(3) Applications for renewal shall be submitted to the board on forms the board shall prescribe and furnish. An application for renewal of a certificate to prescribe may be submitted in conjunction with an application for renewal of a certificate to practice.

(4)(a) Except as provided in division (A)(4)(b) of this section, in the case of an applicant who prescribes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the applicant shall certify to the board whether the applicant has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (A)(4)(a) of this section does not apply if ~~either~~ any of the following is the case:

(i) The state board of pharmacy notifies the state medical

board pursuant to section 4729.861 of the Revised Code that the applicant has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The applicant does not practice as a physician assistant in this state.

(c) If an applicant certifies to the state medical board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the applicant has not been granted access, the board may take action under section 4730.25 of the Revised Code.

(5) Each application for renewal of a certificate to prescribe shall be accompanied by a biennial renewal fee of fifty dollars. The board shall deposit the fees in accordance with section 4731.24 of the Revised Code.

(6) The applicant shall report any criminal offense that constitutes grounds under section 4730.25 of the Revised Code for refusing to issue a certificate to prescribe to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate to prescribe.

(B) The board shall review all renewal applications received. If an applicant submits a complete renewal application and meets the requirements for renewal specified in section 4730.49 of the Revised Code, the board shall issue to the applicant a renewed certificate to prescribe.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or

suspend an individual's certificate to practice, refuse to grant a certificate to an individual, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate if the individual or certificate holder is 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 therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a

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

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

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

(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;

(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;

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

(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;

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

(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;

(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;

(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;

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

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

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

(17) Except as authorized in section 4731.31 of the Revised

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

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

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

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

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

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

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

any rule promulgated by the board.

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

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

(22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in

division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

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

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

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

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

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the

individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

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

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

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

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

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the

assessments and shall describe the basis for their determination.

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

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

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

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

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

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

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

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

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

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

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

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

(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised

Code and the board's rules for providing that supervision;

(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;

(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(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;

(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;

(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;

(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;

(43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code;

(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;

(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

(47) Failure to comply with the requirement regarding maintaining notes described in division (B) of section 2919.191 of the Revised Code or failure to satisfy the requirements of section 2919.191 of the Revised Code prior to performing or inducing an abortion upon a pregnant woman;

(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

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

A telephone conference call may be utilized for ratification

of a consent agreement that revokes or suspends an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

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

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

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a

judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

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

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

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, or in conducting an inspection under division (E) of section 4731.054 of the Revised Code, the board may question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue

subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board.

(a) Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

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

(c) A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a certificate issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

(d) A sheriff's deputy who serves a subpoena shall receive

the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

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

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation or pursuant to an inspection under division (E) of section 4731.054 of the Revised Code is confidential and not subject to discovery in any civil action.

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

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial

proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

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

(d) The disposition of the case.

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

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's certificate to practice without a prior hearing:

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

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

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

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

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

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may

be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, or the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of

the Revised Code, the board shall do whichever of the following is applicable:

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

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

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

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

(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice,

refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

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

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

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

(4) At the request of the board, a certificate holder shall immediately surrender to the board a certificate that the board has suspended, revoked, or permanently revoked.

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

(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.

(O) 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. 4731.281. (A) On or before the deadline established under division (B) of this section for applying for renewal of a certificate of registration, each person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery shall certify to the state medical board that in the preceding two years the person has completed one hundred hours of continuing medical education. The certification shall be made upon the application for biennial registration submitted pursuant to division (B) of this section. The board shall adopt rules providing for pro rata reductions by month of the number of hours of continuing education required for persons who are in their first registration period, who have been disabled due to illness or accident, or who have been absent from the country.

In determining whether a course, program, or activity qualifies for credit as continuing medical education, the board shall approve all continuing medical education taken by persons holding a certificate to practice medicine and surgery that is certified by the Ohio state medical association, all continuing medical education taken by persons holding a certificate to practice osteopathic medicine and surgery that is certified by the Ohio osteopathic association, and all continuing medical education taken by persons holding a certificate to practice podiatric medicine and surgery that is certified by the Ohio podiatric medical association. Each person holding a certificate to practice under this chapter shall be given sufficient choice of continuing

education programs to ensure that the person has had a reasonable opportunity to participate in continuing education programs that are relevant to the person's medical practice in terms of subject matter and level.

The board may require a random sample of persons holding a certificate to practice under this chapter to submit materials documenting completion of the continuing medical education requirement during the preceding registration period, but this provision shall not limit the board's authority to investigate pursuant to section 4731.22 of the Revised Code.

(B)(1) Every person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery wishing to renew that certificate shall apply to the board for a certificate of registration upon an application furnished by the board, and pay to the board at the time of application a fee of three hundred five dollars, according to the following schedule:

(a) Persons whose last name begins with the letters "A" through "B," on or before April 1, 2001, and the first day of April of every odd-numbered year thereafter;

(b) Persons whose last name begins with the letters "C" through "D," on or before January 1, 2001, and the first day of January of every odd-numbered year thereafter;

(c) Persons whose last name begins with the letters "E" through "G," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(d) Persons whose last name begins with the letters "H" through "K," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;

(e) Persons whose last name begins with the letters "L" through "M," on or before April 1, 2000, and the first day of

April of every even-numbered year thereafter;

(f) Persons whose last name begins with the letters "N" through "R," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(g) Persons whose last name begins with the letter "S," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(h) Persons whose last name begins with the letters "T" through "Z," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter.

The board shall deposit the fee in accordance with section 4731.24 of the Revised Code, except that the board shall deposit twenty dollars of the fee into the state treasury to the credit of the physician loan repayment fund created by section 3702.78 of the Revised Code.

(2) The board shall mail or cause to be mailed to every person registered to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, a notice of registration renewal addressed to the person's last known address or may cause the notice to be sent to the person through the secretary of any recognized medical, osteopathic, or podiatric society, according to the following schedule:

(a) To persons whose last name begins with the letters "A" through "B," on or before January 1, 2001, and the first day of January of every odd-numbered year thereafter;

(b) To persons whose last name begins with the letters "C" through "D," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(c) To persons whose last name begins with the letters "E" through "G," on or before July 1, 2000, and the first day of July

of every even-numbered year thereafter;

(d) To persons whose last name begins with the letters "H" through "K," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;

(e) To persons whose last name begins with the letters "L" through "M," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(f) To persons whose last name begins with the letters "N" through "R," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(g) To persons whose last name begins with the letter "S," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter;

(h) To persons whose last name begins with the letters "T" through "Z," on or before April 1, 1999, and the first day of April of every odd-numbered year thereafter.

(3) Failure of any person to receive a notice of renewal from the board shall not excuse the person from the requirements contained in this section.

(4) The board's notice shall inform the applicant of the renewal procedure. The board shall provide the application for registration renewal in a form determined by the board.

(5) The applicant shall provide in the application the applicant's full name, principal practice address and residence address, the number of the applicant's certificate to practice, and any other information required by the board.

(6)(a) Except as provided in division (B)(6)(b) of this section, in the case of an applicant who prescribes or personally furnishes opioid analgesics or benzodiazepines<u>, as defined in section 3719.01 of the Revised Code</u>, the applicant shall certify

to the board whether the applicant has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (B)(6)(a) of this section does not apply if ~~either~~ any of the following is the case:

(i) The state board of pharmacy notifies the state medical board pursuant to section 4729.861 of the Revised Code that the applicant has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The applicant does not practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in this state.

(c) If an applicant certifies to the state medical board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the applicant has not been granted access, the board may take action under section 4731.22 of the Revised Code.

(7) The applicant shall include with the application a list of the names and addresses of any clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners with whom the applicant is currently collaborating, as defined in section 4723.01 of the Revised Code. Every person registered under this section shall give written notice to the state medical board of any change of principal practice address or residence address or in the list within thirty days of the change.

(8) The applicant shall report any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last filing an

application for a certificate of registration.

(9) The applicant shall execute and deliver the application to the board in a manner prescribed by the board.

(C) The board shall issue to any person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, upon application and qualification therefor in accordance with this section, a certificate of registration under the seal of the board. A certificate of registration shall be valid for a two-year period.

(D) Failure of any certificate holder to register and comply with this section shall operate automatically to suspend the holder's certificate to practice. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of section 4731.41, 4731.43, or 4731.60 of the Revised Code. If the certificate has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate a certificate to practice suspended for failure to register upon an applicant's submission of a renewal application, the biennial registration fee, and the applicable monetary penalty. The penalty for reinstatement shall be fifty dollars. If the certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the Revised Code, the board may restore a certificate to practice suspended for failure to register upon an applicant's submission of a restoration application, the biennial registration fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4731.14,

4731.56, or 4731.57 of the Revised Code. The penalty for restoration shall be one hundred dollars. The board shall deposit the penalties in accordance with section 4731.24 of the Revised Code.

(E) If an individual certifies completion of the number of hours and type of continuing medical education required to receive a certificate of registration or reinstatement of a certificate to practice, and the board finds through the random samples it conducts under this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than five thousand dollars. The board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six members.

A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4731.22 of the Revised Code. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code.

(F) The state medical board may obtain information not protected by statutory or common law privilege from courts and other sources concerning malpractice claims against any person holding a certificate to practice under this chapter or practicing as provided in section 4731.36 of the Revised Code.

(G) Each mailing sent by the board under division (B)(2) of this section to a person registered to practice medicine and surgery or osteopathic medicine and surgery shall inform the applicant of the reporting requirement established by division (H) of section 3701.79 of the Revised Code. At the discretion of the board, the information may be included on the application for registration or on an accompanying page.

Sec. 4773.03. (A) Each individual seeking a license to practice as a general x-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist shall apply to the department of health on a form the department shall prescribe and provide. The application shall be accompanied by the appropriate license application fee established in rules adopted under section 4773.08 of the Revised Code.

(B) The department shall review all applications received and issue the appropriate general x-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist license to each applicant who meets all of the following requirements:

(1) Is eighteen years of age or older~~.~~;

(2) Is of good moral character~~.~~;

(3) Except as provided in division (C) of this section, passes the examination administered under section 4773.04 of the Revised Code for the applicant's area of practice~~.~~;

(4) Complies with any other licensing standards established in rules adopted under section 4773.08 of the Revised Code.

(C) An applicant is not required to take a licensing examination if ~~any~~ one of the following ~~apply~~ applies to the applicant:

(1) The individual is applying for a license as a general x-ray machine operator and holds certification in that area of practice from the American registry of radiologic technologists or the American chiropractic registry of radiologic technologists.

(2) The individual is applying for a license as a radiographer and holds certification in that area of practice from the American registry of radiologic technologists.

(3) The individual is applying for a license as a radiation

therapy technologist and holds certification in that area of practice from the American registry of radiologic technologists.

(4) The individual is applying for a license as a nuclear medicine technologist and holds certification in that area of practice from the American registry of radiologic technologists or the nuclear medicine technology certification board.

(5) The individual holds a conditional license issued under section 4773.05 of the Revised Code and has completed the continuing education requirements established in rules adopted under section 4773.08 of the Revised Code.

(6) The individual holds a license, certificate, or other credential issued by another state that the department determines uses standards for radiologic professions that are at least equal to those established under this chapter.

(D) A license issued under this section expires biennially on the license holder's birthday, except for an initial license which expires on the license holder's birthday following two years after it is issued. For an initial license, the fee established in rules adopted under section 4773.08 of the Revised Code may be increased in proportion to the amount of time beyond two years that the license may be valid.

A license may be renewed ~~if~~. To be eligible for renewal, the license holder ~~completes~~ must complete the continuing education requirements specified in rules adopted by the department under section 4773.08 of the Revised Code. Applications for license renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section 4773.08 of the Revised Code. Renewals shall be made in accordance with the standard renewal procedure established under Chapter 4745. of the Revised Code.

(E)(1) A license that has lapsed or otherwise become inactive

may be reinstated. An individual seeking reinstatement of a license shall apply to the department on a form the department shall prescribe and provide. The application shall be accompanied by the appropriate reinstatement fee established in rules adopted under section 4773.08 of the Revised Code.

(2) To be eligible for reinstatement, both of the following apply:

(a) An applicant must continue to meet the conditions for receiving an initial license, including the examination or certification requirements specified in division (B) or (C) of this section. In the case of an applicant seeking reinstatement based on having passed an examination administered under section 4773.04 of the Revised Code, the length of time that has elapsed since the examination was passed is not a consideration in determining whether the applicant is eligible for reinstatement.

(b) The applicant must complete the continuing education requirements for reinstatement established in rules adopted under section 4773.08 of the Revised Code.

(F) The department shall refuse to issue ~~or,~~ renew, or reinstate and may suspend or revoke a general x-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist license if the applicant or license holder does not comply with the applicable requirements of this chapter or rules adopted under it.

Sec. 4773.08. The director of health shall adopt rules to implement and administer this chapter. In adopting the rules, the director shall consider any recommendations made by the radiation advisory council created under section 3701.93 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall not be less stringent than any applicable standards specified in 42 C.F.R. 75. The rules shall

establish all of the following:

(A) Standards for licensing general x-ray machine operators, radiographers, radiation therapy technologists, and nuclear medicine technologists;

(B) Application ~~and,~~ renewal, and reinstatement fees for licenses issued under this chapter that do not exceed the cost incurred in issuing ~~and,~~ renewing, and reinstating the licenses;

(C) Standards for accreditation of educational programs and approval of continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology;

(D) Fees for accrediting educational programs and approving continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology that do not exceed the cost incurred in accrediting the educational programs;

(E) Fees for issuing conditional licenses under section 4773.05 of the Revised Code that do not exceed the cost incurred in issuing the licenses;

(F) Continuing education requirements that must be met to have a license renewed or reinstated under section 4773.03 of the Revised Code;

(G) Continuing education requirements that the holder of a conditional license must meet to receive a license issued under section 4773.03 of the Revised Code;

(H) Any other rules necessary for the implementation or administration of this chapter.

Sec. 5165.08. (A) As used in this section:

"Bed need" means the number of long-term care beds a county

needs as determined by the director of health pursuant to division (B)(3) of section 3702.593 of the Revised Code.

"Bed need excess" means that a county's bed need is such that one or more long-term care beds may be relocated from the county according to the director's determination of the county's bed need.

(B) Every provider agreement with a nursing facility provider shall ~~prohibit~~ do both of the following:

(1) Permit the provider to exclude one or more parts of the nursing facility from the provider agreement, even though those parts meet federal and state standards for medicaid certification, if all of the following apply:

(a) The nursing facility initially obtained both its nursing home license under Chapter 3721. of the Revised Code and medicaid certification on or after January 1, 2008.

(b) The nursing facility is located in a county that has a bed need excess at the time the provider excludes the parts from the provider agreement.

(c) Federal law permits the provider to exclude the parts from the provider agreement.

(d) The provider gives the department of medicaid written notice of the exclusion not less than forty-five days before the first day of the calendar quarter in which the exclusion is to occur.

(2) Prohibit the provider from doing either of the following:

~~(1)~~(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin;

~~(2)~~(b) Subject to division ~~(C)~~(D) of this section, failing or refusing to do either of the following:

~~(a)~~(i) Except as otherwise prohibited under section 5165.82

of the Revised Code, admit as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient unless at least ~~eighty~~ twenty-five per cent of the nursing facility's medicaid-certified beds are occupied by medicaid recipients at the time the person would otherwise be admitted;

~~(b)~~(ii) Retain as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient.

~~(B)~~(C) For the purpose of division ~~(A)~~(B)(2)(b)(ii) of this section, a medicaid recipient who is a resident of a nursing facility shall be considered a resident of the nursing facility during any hospital stays totaling less than twenty-five days during any twelve-month period.

~~(C)~~(D) Nothing in this section shall bar a provider from doing any of the following:

(1) If the provider is a religious organization operating a religious or denominational nursing facility from giving preference to persons of the same religion or denomination;

(2) Giving preference to persons with whom the provider has contracted to provide continuing care;

(3) If the nursing facility is a county home organized under Chapter 5155. of the Revised Code, admitting residents exclusively from the county in which the county home is located;

(4) Retaining residents who have resided in the provider's nursing facility for not less than one year as private pay patients and who subsequently become medicaid recipients, but refusing to accept as a resident any person who is, or may (as a resident of the nursing facility) become a medicaid recipient, if all of the following apply:

(a) The provider does not refuse to retain any resident who has resided in the provider's nursing facility for not less than one year as a private pay resident because the resident becomes a medicaid recipient, except as necessary to comply with division ~~(C)~~(D)(4)(b) of this section;

(b) The number of medicaid recipients retained under division ~~(C)~~(D)(4) of this section does not at any time exceed ten per cent of all the residents in the nursing facility;

(c) On July 1, 1980, all the residents in the nursing facility were private pay residents.

~~(D)~~(E) No provider shall violate the provider agreement obligations imposed by this section.

(F) A nursing facility provider who excludes one or more parts of the nursing facility from a provider agreement pursuant to division (B)(1) of this section does not violate division (C) of section 3702.53 of the Revised Code.

Sec. 5165.513. (A) A provider that enters into a provider agreement with the department of medicaid under section 5165.511 or 5165.512 of the Revised Code shall do all of the following:

~~(A)~~(1) Comply with all applicable federal statutes and regulations;

~~(B)~~(2) Comply with section 5165.07 of the Revised Code and all other applicable state statutes and rules;

~~(C)~~(3) Subject to division (B) of this section, comply with all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following:

~~(1)~~(a) Any plan of correction;

~~(2)~~(b) Compliance with health and safety standards;

~~(3)~~(c) Compliance with the ownership and financial interest

disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;

~~(4)~~(d) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;

~~(5)~~(e) Compliance with additional requirements imposed by the department;

~~(6)~~(f) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.

(B) Division (A)(3) of this section does not prohibit a nursing facility provider from excluding one or more parts of the nursing facility from the provider agreement pursuant to division (B)(1) of section 5165.08 of the Revised Code.

Sec. 5165.515. The department of medicaid may enter into a provider agreement as provided in section 5165.07 of the Revised Code, rather than section 5165.511 or 5165.512 of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the requirements of division ~~(C)~~(A)(3) of section 5165.513 of the Revised Code. The department may not enter into the provider agreement unless the department of health certifies the nursing facility for participation in medicaid. The effective date of the provider agreement shall not precede any of the following:

(A) The date that the department of health certifies the nursing facility;

(B) The effective date of the change of operator;

(C) The date the requirement of section 5165.51 of the Revised Code is satisfied.

Sec. 5165.99. (A) Whoever violates section 5165.102 or division ~~(D)~~(E) of section 5165.08 of the Revised Code shall be fined not less than five hundred dollars nor more than one thousand dollars for the first offense and not less than one thousand dollars nor more than five thousand dollars for each subsequent offense. Fines paid under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(B) Whoever violates division (D) of section 5165.88 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

Section 2. That existing sections 2925.02, 3701.63, 3701.64, 3719.01, 3719.061, 4715.14, 4715.30, 4723.28, 4723.481, 4723.486, 4725.16, 4725.19, 4729.12, 4729.16, 4729.18, 4729.85, 4729.86, 4730.25, 4730.41, 4730.48, 4731.22, 4731.281, 4773.03, 4773.08, 5165.08, 5165.513, 5165.515, and 5165.99 and sections 4715.15, 4723.433, 4730.093, and 4731.77 of the Revised Code are hereby repealed.

Section 3. That the versions of sections 4715.30, 4715.302, 4723.28, 4723.487, 4725.092, 4725.19, 4730.25, 4730.53, 4731.055, and 4731.22 of the Revised Code that are scheduled to take effect April 1, 2015, be amended to read as follows:

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

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

(2) Obtaining or attempting to obtain money or anything of

value by intentional misrepresentation or material deception in the course of practice;

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

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

(5) 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;

(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of a misdemeanor committed in the course of practice;

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

(8) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes, or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(9) Providing or allowing dental hygienists, expanded function dental auxiliaries, or other practitioners of auxiliary dental occupations working under the certificate or license holder's supervision, or a dentist holding a temporary limited continuing education license under division (C) of section 4715.16 of the Revised Code working under the certificate or license

holder's direct supervision, to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results;

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

(11) Violation of any provision of this chapter or any rule adopted thereunder;

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

(13) Except as provided in division (H) of this section, either of the following:

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

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

(14) Failure to comply with section 4715.302 or 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(15) Any of the following actions taken by an agency

responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(16) Failure to cooperate in an investigation conducted by the board under division (D) of section 4715.03 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(17) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

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

(C) Subject to Chapter 119. of the Revised Code, the board may take one or more of the following disciplinary actions if one or more of the grounds for discipline listed in divisions (A) and

(B) of this section exist:

(1) Censure the license or certificate holder;

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

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

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

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

(3) Suspend the certificate or license;

(4) Revoke the certificate or license.

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

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

(D) If the physical or mental condition of an applicant or a license or certificate holder is at issue in a disciplinary proceeding, the board may order the license or certificate holder to submit to reasonable examinations by an individual designated

or approved by the board and at the board's expense. The physical examination may be conducted by any individual authorized by the Revised Code to do so, including a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife. Any written documentation of the physical examination shall be completed by the individual who conducted the examination.

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

(E) If a license or certificate holder has failed to comply with an order under division (D) of this section, the board may apply to the court of common pleas of the county in which the holder resides for an order temporarily suspending the holder's license or certificate, without a prior hearing being afforded by the board, until the board conducts an adjudication hearing pursuant to Chapter 119. of the Revised Code. If the court temporarily suspends a holder's license or certificate, the board shall give written notice of the suspension personally or by certified mail to the license or certificate holder. Such notice shall inform the license or certificate holder of the right to a hearing pursuant to Chapter 119. of the Revised Code.

(F) Any holder of a certificate or license issued under this chapter who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for intervention in lieu of conviction entered against the holder in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for treatment or intervention in

lieu of conviction entered against the holder in another jurisdiction for any substantially equivalent criminal offense, is automatically suspended from practice under this chapter in this state and any certificate or license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea, conviction, or judicial finding, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's certificate or license under this division shall be considered practicing without a certificate or license. The board shall notify the suspended individual of the suspension of the individual's certificate or license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate or license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the individual's certificate or license.

(G) If the supervisory investigative panel determines both of the following, the panel may recommend that the board suspend an individual's certificate or license without a prior hearing:

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

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than four dentist members of the board and seven of its members in total, excluding any member on the supervisory investigative panel, may suspend a certificate or license without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

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

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

(H) Sanctions shall not be imposed under division (A)(13) of this section against any certificate or license holder who waives deductibles and copayments as follows:

(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 who holds a certificate or license issued pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(I) In no event shall the board consider or raise during a hearing required by Chapter 119. of the Revised Code the

circumstances of, or the fact that the board has received, one or more complaints about a person unless the one or more complaints are the subject of the hearing or resulted in the board taking an action authorized by this section against the person on a prior occasion.

(J) The board may share any information it receives pursuant to an investigation under division (D) of section 4715.03 of the Revised Code, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state dental board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state dental board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

Sec. 4715.302. (A) As used in this section~~, "drug~~:

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

(2) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, a dentist shall comply with all of the following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine, or personally furnishing a complete or partial supply of such a drug, as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing or furnishing the drug, the dentist or the dentist's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the dentist practices primarily in a county of this state that adjoins another state, the dentist or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the dentist or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the dentist shall assess the information in the report. The dentist shall document in the patient's record that the report was received and the information was assessed.

(C)(1) Division (B) of this section does not apply if a drug

database report regarding the patient is not available. In this event, the dentist shall document in the patient's record the reason that the report is not available.

(2) Division (B) of this section does not apply if the drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days.

(D) ~~With respect to prescribing or personally furnishing any drug that is not an opioid analgesic or a benzodiazepine but is included in the drug database pursuant to rules adopted under section 4729.84 of the Revised Code, the~~ The state dental board ~~shall~~ may adopt rules that establish standards and procedures to be followed by a dentist regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

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

Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions if it finds that a person committed fraud in passing an examination required to obtain a license, certificate of authority, or dialysis technician certificate issued by the board or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license, certificate of authority, or dialysis technician certificate issued by the board: deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred

dollars per violation.

(B) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

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

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

(3) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;

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

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

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

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

(9) Habitual or excessive use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs the individual's ability to provide safe nursing care or safe dialysis care;

(10) Impairment of the ability to practice according to

acceptable and prevailing standards of safe nursing care or safe dialysis care because of the use of drugs, alcohol, or other chemical substances;

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

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

(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;

(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;

(21) In the case of a licensed practical nurse, engaging in

activities that exceed the practice of nursing as a licensed practical nurse;

(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;

(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;

(24) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, except as provided in division (M) of this section, either of the following:

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

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

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

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

(27) In the case of a certified registered nurse anesthetist,

clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

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

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

(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;

(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;

(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:

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

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

demeaning.

(33) Assisting suicide~~,~~ as defined in section 3795.01 of the Revised Code;

(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid~~.~~ analgesic, as defined in section 3719.01 of the Revised Code;

~~(34)~~(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

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

In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant, licensee, or certificate holder does not make a timely request for a hearing in accordance with section

119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of a quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section.

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

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

conviction, plea, or judicial finding was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case shall be deemed not to have occurred, sealing of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction.

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

(F) The board may investigate an individual's criminal background in performing its duties under this section. As part of such investigation, the board may order the individual to submit, at the individual's expense, a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records in accordance with the procedure described in section 4723.091 of the Revised Code.

(G) During the course of an investigation conducted under this section, the board may compel any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter to submit to a mental or physical examination, or both, as

required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability to provide safe nursing care. Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

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

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

(H) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule of the board. Any person may report to the board any information the person may have that appears to show a violation of any provision of this chapter or rule of the board. In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication conducted under

Chapter 119. of the Revised Code shall not be liable for civil damages as a result of the report or testimony.

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

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

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

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

(4) Any board activity that involves continued monitoring of an individual as part of or following any disciplinary action taken under this section shall be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the board with respect to the board's monitoring activities is not subject to discovery in any civil action and is confidential, except that the board may disclose information to law enforcement officers and government entities for purposes of

an investigation of a licensee or certificate holder.

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

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

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

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

(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 licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

Sec. 4723.487. (A) As used in this section~~, "drug~~:

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

(2) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, an advanced practice registered nurse holding a certificate to prescribe issued under this chapter shall comply with all of the following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing the drug, the nurse or the nurse's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the nurse practices primarily in a county of this state that adjoins another state, the nurse or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the nurse or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not

exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the nurse shall assess the information in the report. The nurse shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply if in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the nurse shall document in the patient's record the reason that the report is not available.

(2) The drug is prescribed in an amount indicated for a period not to exceed seven days.

(3) The drug is prescribed for the treatment of cancer or another condition associated with cancer.

(4) The drug is prescribed to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

(5) The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

(D) ~~With respect to prescribing any drug that is not an opioid analgesic or a benzodiazepine but is included in the drug database pursuant to rules adopted under section 4729.84 of the Revised Code, the~~ The board of nursing ~~shall~~ may adopt rules, in accordance with Chapter 119. of the Revised Code, that establish standards and procedures to be followed by an advanced practice registered nurse with a certificate to prescribe issued under section 4723.48 of the Revised Code regarding the review of

patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

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

Sec. 4725.092. (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) ~~Except as provided in divisions (C) and (E) of this section, an optometrist holding a therapeutic pharmaceutical agents certificate shall comply with all of the following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine, or personally furnishing a complete or partial supply of such a drug, as part of a patient's course of treatment for a particular condition:~~

~~(1) Before initially prescribing or furnishing the drug, the optometrist or the optometrist's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the optometrist practices primarily in a county of this state that adjoins another state, the optometrist or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.~~

~~(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the optometrist or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at~~

~~intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.~~

~~(3) On receipt of a report under division (B)(1) or (2) of this section, the optometrist shall assess the information in the report. The optometrist shall document in the patient's record that the report was received and the information was assessed.~~

~~(C)(1) Division (B) of this section does not apply if a drug database report regarding the patient is not available. In this event, the optometrist shall document in the patient's record the reason that the report is not available.~~

~~(2) Division (B) of this section does not apply if the drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days.~~

~~(D) With respect to prescribing or personally furnishing any drug that is not an opioid analgesic or a benzodiazepine but is included in the drug database pursuant to rules adopted under section 4729.84 of the Revised Code, the~~ The state board of optometry shall adopt rules that establish standards and procedures to be followed by an optometrist who holds a therapeutic pharmaceutical agents certificate regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

~~(E)~~(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. 4725.19. (A) In accordance with Chapter 119. of the Revised Code and by an affirmative vote of a majority of its members, the state board of optometry, for any of the reasons specified in division (B) of this section, shall refuse to grant a certificate of licensure to an applicant and may, with respect to a licensed optometrist, do one or more of the following:

(1) Suspend the operation of any certificate of licensure, topical ocular pharmaceutical agents certificate, or therapeutic pharmaceutical agents certificate, or all certificates granted by it to the optometrist;

(2) Permanently revoke any or all of the certificates;

(3) Limit or otherwise place restrictions on any or all of the certificates;

(4) Reprimand the optometrist;

(5) Impose a monetary penalty. If the reason for which the board is imposing the penalty involves a criminal offense that carries a fine under the Revised Code, the penalty shall not exceed the maximum fine that may be imposed for the criminal offense. In any other case, the penalty imposed by the board shall not exceed five hundred dollars.

(6) Require the optometrist to take corrective action courses.

The amount and content of corrective action courses shall be established by the board in rules adopted under section 4725.09 of the Revised Code.

(B) The sanctions specified in division (A) of this section may be taken by the board for any of the following reasons:

(1) Committing fraud in passing the licensing examination or making false or purposely misleading statements in an application for a certificate of licensure;

(2) Being at any time guilty of immorality, regardless of the jurisdiction in which the act was committed;

(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;

(4) Being at any time guilty of a felony, regardless of the jurisdiction in which the act was committed;

(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;

(6) Violating the conditions of any limitation or other restriction placed by the board on any certificate issued by the board;

(7) Engaging in the practice of optometry as provided in division (A)(1), (2), or (3) of section 4725.01 of the Revised Code when the certificate authorizing that practice is under suspension, in which case the board shall permanently revoke the certificate;

(8) Being denied a license to practice optometry in another state or country or being subject to any other sanction by the optometric licensing authority of another state or country, other than sanctions imposed for the nonpayment of fees;

(9) Departing from or failing to conform to acceptable and prevailing standards of care in the practice of optometry as followed by similar practitioners under the same or similar circumstances, regardless of whether actual injury to a patient is established;

(10) Failing to maintain comprehensive patient records;

(11) Advertising a price of optical accessories, eye examinations, or other products or services by any means that would deceive or mislead the public;

(12) Being addicted to the use of alcohol, stimulants, narcotics, or any other substance which impairs the intellect and judgment to such an extent as to hinder or diminish the performance of the duties included in the person's practice of optometry;

(13) Engaging in the practice of optometry as provided in division (A)(2) or (3) of section 4725.01 of the Revised Code without authority to do so or, if authorized, in a manner inconsistent with the authority granted;

(14) Failing to make a report to the board as required by division (A) of section 4725.21 or section 4725.31 of the Revised Code;

(15) Soliciting patients from door to door or establishing temporary offices, in which case the board shall suspend all certificates held by the optometrist;

(16) ~~Failing to comply with section 4725.092 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;~~

~~(17)~~ Except as provided in division (D) of this section:

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

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

(17) Failing to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an analgesic controlled substance authorized pursuant to section 4725.091 of the Revised Code that is an opioid analgesic, as defined in section 3719.01 of the Revised Code.

(C) Any person who is the holder of a certificate of licensure, or who is an applicant for a certificate of licensure against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing before the board in accordance with Chapter 119. of the Revised Code.

(D) Sanctions shall not be imposed under division (B)(17) of this section against any optometrist who waives deductibles and copayments:

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

(2) For professional services rendered to any other optometrist licensed by the board, to the extent allowed by sections 4725.01 to 4725.34 of the Revised Code and the rules of the board.

Sec. 4730.25. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as a physician assistant or a certificate to prescribe to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(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 as a physician assistant or certificate to prescribe, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

(1) Failure to practice in accordance with the conditions under which the supervising physician's supervision agreement with the physician assistant was approved, including the requirement that when practicing under a particular supervising physician, the physician assistant must practice only according to the physician supervisory plan the board approved for that physician or the policies of the health care facility in which the supervising physician and physician assistant are practicing;

(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;

(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(6) Administering drugs for purposes other than those authorized under this chapter;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a certificate to practice as a physician assistant, a certificate to prescribe, or approval of a supervision agreement.

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

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

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

(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 felony;

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

(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 committed in the course of practice;

(14) 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;

(15) 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;

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

(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(18) Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(19) A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established;

(20) Violation of the conditions placed by the board on a certificate to practice as a physician assistant, a certificate to prescribe, a physician supervisory plan, or supervision agreement;

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

(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(23) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(24) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

(25) Failure to comply with section 4730.53 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

~~(25)~~(26) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a physician assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute

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

(D) For purposes of divisions (B)(12), (15), and (16) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

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

(F) For purposes of this division, any individual who holds a certificate issued under this chapter, or applies for a certificate issued under this chapter, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(4) of this section, the board, upon a showing of a possible violation, may compel any individual who holds a certificate issued under this chapter or who has applied for a certificate pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a physician assistant unable to practice because of the reasons set forth in division (B)(4) of this section, the board shall require the physician assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(5) of this section, if the board has reason to believe that any individual who holds a certificate issued under this chapter or any applicant for a certificate suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

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

Before being eligible to apply for reinstatement of a certificate suspended under this division, the physician assistant shall demonstrate to the board the ability to resume practice or prescribing in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

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

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

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

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

When the impaired physician assistant resumes practice or

prescribing, the board shall require continued monitoring of the physician assistant. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the physician assistant has maintained sobriety.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that a physician assistant has violated division (B) of this section and that the individual's continued practice or prescribing presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice or prescribe without a prior hearing. Written allegations shall be prepared for consideration by the board.

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

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the physician assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the physician assistant requests the hearing, unless otherwise agreed to by both the board and the certificate holder.

A summary suspension imposed under this division shall remain

in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the certificate to practice or prescribe. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to a physician assistant and the physician assistant's practice in this state are automatically suspended as of the date the physician assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another state for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder,

murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate to practice.

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

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the physician assistant's certificate may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant to an applicant a certificate to practice as a physician assistant or a certificate

to prescribe, revokes an individual's certificate, refuses to issue a certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold the certificate and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

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

(2) An application made under this chapter for a certificate, approval of a physician supervisory plan, or approval of a supervision agreement may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate in accordance with section 4730.14 or section 4730.48 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4730.53. (A) As used in this section~~, "drug~~:

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

(2) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, a physician assistant holding a certificate to prescribe issued under this chapter shall comply with all of the following

as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing the drug, the physician assistant or the physician assistant's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the physician assistant practices primarily in a county of this state that adjoins another state, the physician assistant or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the physician assistant or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the physician assistant shall assess the information in the report. The physician assistant shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply in any of the following circumstances:

(1) A drug database report regarding the patient is not

available, in which case the physician assistant shall document in the patient's record the reason that the report is not available.

(2) The drug is prescribed in an amount indicated for a period not to exceed seven days.

(3) The drug is prescribed for the treatment of cancer or another condition associated with cancer.

(4) The drug is prescribed to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

(5) The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

(D) ~~With respect to prescribing any drug that is not an opioid analgesic or a benzodiazepine but is included in the drug database pursuant to rules adopted under section 4729.84 of the Revised Code, the~~ The state medical board ~~shall~~ may adopt rules 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 under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

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

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

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

(2) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and

surgery, or podiatric medicine and surgery.

(3) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, a physician shall comply with all of the following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine, or personally furnishing a complete or partial supply of such a drug, as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing or furnishing the drug, the physician or the physician's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the physician practices primarily in a county of this state that adjoins another state, the physician or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the physician or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the physician shall assess the information in the report. The physician shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the physician shall document in the patient's record the reason that the report is not available.

(2) The drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days.

(3) The drug is prescribed or personally furnished for the treatment of cancer or another condition associated with cancer.

(4) The drug is prescribed or personally furnished to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

(5) The drug is prescribed or personally furnished for administration in a hospital, nursing home, or residential care facility.

(6) The drug is prescribed or personally furnished to treat acute pain resulting from a surgical or other invasive procedure or a delivery.

(D) ~~With respect to prescribing or personally furnishing any drug that is not an opioid analgesic or a benzodiazepine but is included in the drug database pursuant to rules adopted under section 4729.84 of the Revised Code, the~~ The state medical board ~~shall~~ may adopt rules that establish standards and procedures to be followed by a physician regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(E) This section and ~~the~~ any 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 limit, revoke, or suspend an individual's certificate to practice, refuse to grant a certificate to an individual, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate if the individual or certificate holder is 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 therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law

regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

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

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

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

(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;

(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;

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

(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;

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

(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;

(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;

(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;

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

(15) Violation of the conditions of limitation placed by the

board upon a certificate to practice;

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

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

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

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

(19) Inability to practice according to acceptable and

prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

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

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

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

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

(22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

required to pay.

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

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

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

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

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

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction

has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;

(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;

(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(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;

(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;

(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;

(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;

(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code;

(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;

(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

(47) Failure to comply with the requirement regarding maintaining notes described in division (B) of section 2919.191 of the Revised Code or failure to satisfy the requirements of section 2919.191 of the Revised Code prior to performing or inducing an abortion upon a pregnant woman;

(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing ~~to~~ for a minor a prescription for ~~a controlled substance containing~~ an opioid analgesic, as defined in section 3719.01 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the

agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

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

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

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

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

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

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

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, or in conducting an

inspection under division (E) of section 4731.054 of the Revised Code, the board may question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board.

(a) Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

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

(c) A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a certificate issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the

person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

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

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

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation or pursuant to an inspection under division (E) of section 4731.054 of the Revised Code is confidential and not subject to discovery in any civil action.

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

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives

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

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

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

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

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

(d) The disposition of the case.

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

(G) If the secretary and supervising member determine both of

the following, they may recommend that the board suspend an individual's certificate to practice without a prior hearing:

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

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

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

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

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

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

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, or the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

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

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

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

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

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant

to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

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

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

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

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

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

(4) At the request of the board, a certificate holder shall immediately surrender to the board a certificate that the board has suspended, revoked, or permanently revoked.

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

(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.

(O) 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.

Section 4. That the existing versions of sections 4715.30, 4715.302, 4723.28, 4723.487, 4725.092, 4725.19, 4730.25, 4730.53, 4731.055, and 4731.22 of the Revised Code that are scheduled to take effect April 1, 2015, are hereby repealed.

Section 5. Sections 3 and 4 of this act shall take effect April 1, 2015.

Section 6. An individual may apply for reinstatement of a license under division (E) of section 4773.03 of the Revised Code, as amended by this act, even if the individual had applied prior to the effective date of this section for a new license pursuant to paragraph (O) of rule 3701-72-02 of the Administrative Code and the application was denied. The Department of Health shall accept and review the individual's application for reinstatement. If the applicant meets the requirements of division (E) of section 4773.03 of the Revised Code, as amended by this act, the Department shall reinstate the applicant's license to practice as a general x-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist.

Section 7. Sections 1 and 2 of this act, except sections 4773.03, 4773.08, 5165.08, 5165.513, 5165.515, and 5165.99 of the

Revised Code, take effect ninety days after the effective date of this section.

Sections 4773.03, 4773.08, 5165.08, 5165.513, 5165.515, and 5165.99 of the Revised Code, as amended by this act, take effect January 1, 2015.

Section 6 of this act takes effect January 1, 2015.

Section 8. The versions of sections 5165.08, 5165.513, 5165.515, and 5165.99 of the Revised Code presented in this act are the versions of the sections that result from Sections 110.25, 110.26, and 110.27 of Am. Sub. H.B. 59 of the 130th General Assembly.

Section 9. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 2925.02 of the Revised Code as amended by both Sub. H.B. 64 and Am. Sub. H.B. 86 of the 129th General Assembly.

Section 4729.12 of the Revised Code as amended by Am. Sub. H.B. 341, Am. Sub. H.B. 483, and Am. Sub. H.B. 488, all of the 130th General Assembly.

Section 3701.63 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly.

Sections 4715.30, 4723.28, 4729.19, 4730.25, and 4731.22 of the Revised Code as amended by Sub. H.B. 314, Am. Sub. H.B. 341, and Am. Sub. H.B. 483 all of the 130th General Assembly.

Section 10. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to provide continuity in the operation of nursing facilities in this state and in the provision of services by radiologic personnel to the residents of this state. Therefore, this act shall go into immediate effect.