

As Introduced

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H. B. No. 290

**Representatives Sprague, Anielski
Cosponsors: Representatives Blessing, Dever, Grossman, Hackett, Henne,
Rezabek, Romanchuk, Thompson**

A BILL

To amend sections 1739.05, 4729.291, 4729.51, 1
4729.57, 4731.22, and 4731.227 and to enact 2
sections 1751.671, 3923.851, 4729.88, 4729.89, 3
and 4731.96 of the Revised Code to permit a 4
physician to treat a terminally ill patient with 5
a drug that is not approved by the United States 6
Food and Drug Administration and permit a drug 7
manufacturer to provide such a drug to the 8
patient or physician. 9

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

Section 1. That sections 1739.05, 4729.291, 4729.51, 10
4729.57, 4731.22, and 4731.227 be amended and sections 1751.671, 11
3923.851, 4729.88, 4729.89, and 4731.96 of the Revised Code be 12
enacted to read as follows: 13

Sec. 1739.05. (A) A multiple employer welfare arrangement 14
that is created pursuant to sections 1739.01 to 1739.22 of the 15
Revised Code and that operates a group self-insurance program 16
may be established only if any of the following applies: 17

(1) The arrangement has and maintains a minimum enrollment 18

of three hundred employees of two or more employers. 19

(2) The arrangement has and maintains a minimum enrollment 20
of three hundred self-employed individuals. 21

(3) The arrangement has and maintains a minimum enrollment 22
of three hundred employees or self-employed individuals in any 23
combination of divisions (A) (1) and (2) of this section. 24

(B) A multiple employer welfare arrangement that is 25
created pursuant to sections 1739.01 to 1739.22 of the Revised 26
Code and that operates a group self-insurance program shall 27
comply with all laws applicable to self-funded programs in this 28
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 29
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 30
3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, 31
3923.38, 3923.581, 3923.63, 3923.80, 3923.85, 3923.851, 32
3924.031, 3924.032, and 3924.27 of the Revised Code. 33

(C) A multiple employer welfare arrangement created 34
pursuant to sections 1739.01 to 1739.22 of the Revised Code 35
shall solicit enrollments only through agents or solicitors 36
licensed pursuant to Chapter 3905. of the Revised Code to sell 37
or solicit sickness and accident insurance. 38

(D) A multiple employer welfare arrangement created 39
pursuant to sections 1739.01 to 1739.22 of the Revised Code 40
shall provide benefits only to individuals who are members, 41
employees of members, or the dependents of members or employees, 42
or are eligible for continuation of coverage under section 43
1751.53 or 3923.38 of the Revised Code or under Title X of the 44
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 45
Stat. 227, 29 U.S.C.A. 1161, as amended. 46

Sec. 1751.671. (A) As used in this section: 47

(1) "Investigational drug, product, or device" has the same meaning as under section 4731.96 of the Revised Code. 48
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(2) "Investigational drug, product, or device recipient" means an individual receiving an investigational drug, product, or device under sections 4729.88 and 4731.96 of the Revised Code. 50
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(B) An individual or group health policy, contract, or agreement issued by a health insuring corporation may exclude coverage in relation to an investigational drug, product, or device according to both of the following: 54
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(1) The policy, contract, or agreement may exclude coverage for the cost of an investigational drug, product, or device provided under sections 4729.88 and 4731.96 of the Revised Code; 58
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(2)(a) The policy, contract, or agreement may exclude coverage for an investigational drug, product, or device recipient beginning on the date that the investigational drug, product, or device is first dispensed to the recipient. 62
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(b) The exclusion prescribed in division (B)(2)(a) of this section is subject to the following: 66
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(i) The exclusion shall not last for a period of more than six months. 68
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(ii) The exclusion shall not include conditions that existed prior to the start date of the exclusion. 70
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(iii) The exclusion shall not include benefits that commenced prior to the start date of the exclusion. 72
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(C) If an investigational drug, product, or device recipient dies while being treated with an investigational drug, 74
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product, or device, the recipient's estate, devisees, and heirs 76
shall not be liable for any outstanding costs related to 77
treating the recipient or the recipient's lack of health 78
insurance coverage under division (B) of this section. 79

Sec. 3923.851. (A) As used in this section: 80

(1) "Investigational drug, product, or device" has the 81
same meaning as under section 4731.96 of the Revised Code. 82

(2) "Investigational drug, product, or device recipient" 83
means an individual receiving an investigational drug, product, 84
or device under sections 4729.88 and 4731.96 of the Revised 85
Code. 86

(B) An individual or group policy of sickness and accident 87
insurance that is delivered, issued for delivery, or renewed in 88
this state, or a public employee benefit plan that is 89
established or modified in this state, may exclude coverage in 90
relation to an investigational drug, product, or device 91
according to both of the following: 92

(1) The policy or plan may exclude coverage for the cost 93
of an investigational drug, product, or device provided under 94
sections 4729.88 and 4731.96 of the Revised Code; 95

(2) (a) The policy or plan may exclude coverage for an 96
investigational drug, product, or device recipient beginning on 97
the date that the investigational drug, product, or device is 98
first dispensed to the recipient. 99

(b) The exclusion prescribed in division (B) (2) (a) of this 100
section is subject to the following: 101

(i) The exclusion shall not last for a period of more than 102
six months. 103

(ii) The exclusion shall not include conditions that 104
existed prior to the start date of the exclusion. 105

(iii) The exclusion shall not include benefits that 106
commenced prior to the start date of the exclusion. 107

(C) If an investigational drug, product, or device 108
recipient dies while being treated with an investigational drug, 109
product, or device, the recipient's estate, devisees, and heirs 110
shall not be liable for any outstanding costs related to 111
treating the recipient or to the recipient's lack of health 112
insurance coverage under division (B) of this section. 113

Sec. 4729.291. (A) When—Except when provided under section 114
4731.96 of the Revised Code, when a licensed health professional 115
authorized to prescribe drugs personally furnishes drugs to a 116
patient pursuant to division (B) of section 4729.29 of the 117
Revised Code, the prescriber shall ensure that the drugs are 118
labeled and packaged in accordance with state and federal drug 119
laws and any rules and regulations adopted pursuant to those 120
laws. Records of purchase and disposition of all drugs 121
personally furnished to patients shall be maintained by the 122
prescriber in accordance with state and federal drug statutes 123
and any rules adopted pursuant to those statutes. 124

(B) When personally furnishing to a patient RU-486 125
(mifepristone), a prescriber is subject to section 2919.123 of 126
the Revised Code. A prescription for RU-486 (mifepristone) shall 127
be in writing and in accordance with section 2919.123 of the 128
Revised Code. 129

(C) (1) Except as provided in division (D) of this section, 130
no prescriber shall do either of the following: 131

(a) In any thirty-day period, personally furnish to or for 132

patients, taken as a whole, controlled substances in an amount 133
that exceeds a total of two thousand five hundred dosage units; 134

(b) In any seventy-two-hour period, personally furnish to 135
or for a patient an amount of a controlled substance that 136
exceeds the amount necessary for the patient's use in a seventy- 137
two-hour period. 138

(2) The state board of pharmacy may impose a fine of not 139
more than five thousand dollars on a prescriber who fails to 140
comply with the limits established under division (C) (1) of this 141
section. A separate fine may be imposed for each instance of 142
failing to comply with the limits. In imposing the fine, the 143
board's actions shall be taken in accordance with Chapter 119. 144
of the Revised Code. 145

(D) (1) None of the following shall be counted in 146
determining whether the amounts specified in division (C) (1) of 147
this section have been exceeded: 148

(a) Methadone provided to patients for the purpose of 149
treating drug dependence or addiction, if the prescriber meets 150
the conditions specified in 21 C.F.R. 1306.07; 151

(b) Buprenorphine provided to patients for the purpose of 152
treating drug dependence or addiction as part of an opioid 153
treatment program that is the subject of a current, valid 154
certification from the substance abuse and mental health 155
services administration of the United States department of 156
health and human services pursuant to 42 C.F.R. 8.11 and 157
distributes both buprenorphine and methadone; 158

(c) Controlled substances provided to research subjects by 159
a facility conducting clinical research in studies approved by a 160
hospital-based institutional review board or an institutional 161

review board accredited by the association for the accreditation 162
of human research protection programs. 163

(2) Division (C) (1) of this section does not apply to a 164
prescriber who is a veterinarian. 165

Sec. 4729.51. (A) (1) Except as provided in division (A) (2) 166
of this section, no person other than a registered wholesale 167
distributor of dangerous drugs shall possess for sale, sell, 168
distribute, or deliver, at wholesale, dangerous drugs, except as 169
follows: 170

(a) A pharmacist who is a licensed terminal distributor of 171
dangerous drugs or who is employed by a licensed terminal 172
distributor of dangerous drugs may make occasional sales of 173
dangerous drugs at wholesale; 174

(b) A licensed terminal distributor of dangerous drugs 175
having more than one establishment or place may transfer or 176
deliver dangerous drugs from one establishment or place for 177
which a license has been issued to the terminal distributor to 178
another establishment or place for which a license has been 179
issued to the terminal distributor if the license issued for 180
each establishment or place is in effect at the time of the 181
transfer or delivery. 182

(2) A manufacturer of dangerous drugs may donate 183
epinephrine autoinjectors to any of the following: 184

(a) The board of education of a city, local, exempted 185
village, or joint vocational school district; 186

(b) A community school established under Chapter 3314. of 187
the Revised Code; 188

(c) A STEM school established under Chapter 3326. of the 189

Revised Code;	190
(d) A college-preparatory boarding school established under Chapter 3328. of the Revised Code;	191 192
(e) A chartered or nonchartered nonpublic school.	193
(B) (1) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs to any person other than the following:	194 195 196
(a) Except as provided in division (B) (2) (a) of this section, a licensed health professional authorized to prescribe drugs;	197 198 199
(b) An optometrist licensed under Chapter 4725. of the Revised Code who holds a topical ocular pharmaceutical agents certificate;	200 201 202
(c) A registered wholesale distributor of dangerous drugs;	203
(d) A manufacturer of dangerous drugs;	204
(e) Subject to division (B) (3) of this section, a licensed terminal distributor of dangerous drugs;	205 206
(f) Carriers or warehouses for the purpose of carriage or storage;	207 208
(g) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state;	209 210 211
(h) An individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of	212 213 214 215 216

the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession;

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

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

(k) Except as provided in division (B)(2)(c) of this section, a business entity that is a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership or a limited liability partnership formed under Chapter 1775. of the Revised Code, or a professional association formed under Chapter 1785. of the Revised Code, if, to be a shareholder, member, or partner, an individual is required to be licensed, certified, or otherwise legally authorized under Title XLVII of the Revised Code to perform the professional service provided by the entity and each such

individual is a licensed health professional authorized to 247
prescribe drugs; 248

(l) With respect to epinephrine autoinjectors that may be 249
possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, 250
or 3328.29 of the Revised Code, any of the following: the board 251
of education of a city, local, exempted village, or joint 252
vocational school district; a chartered or nonchartered 253
nonpublic school; a community school established under Chapter 254
3314. of the Revised Code; a STEM school established under 255
Chapter 3326. of the Revised Code; or a college-preparatory 256
boarding school established under Chapter 3328. of the Revised 257
Code; 258

(m) With respect to epinephrine autoinjectors that may be 259
possessed under section 5101.76 of the Revised Code, any of the 260
following: a residential camp, as defined in section 2151.011 of 261
the Revised Code; a child day camp, as defined in section 262
5104.01 of the Revised Code; or a child day camp operated by any 263
county, township, municipal corporation, township park district 264
created under section 511.18 of the Revised Code, park district 265
created under section 1545.04 of the Revised Code, or joint 266
recreation district established under section 755.14 of the 267
Revised Code; 268

(n) With respect to naloxone that may be possessed under 269
section 2925.61 of the Revised Code, a law enforcement agency 270
and its peace officers. 271

(2) No registered wholesale distributor of dangerous drugs 272
shall possess for sale, or sell, at wholesale, dangerous drugs 273
to any of the following: 274

(a) A prescriber who is employed by a pain management 275

clinic that is not licensed as a terminal distributor of 276
dangerous drugs with a pain management clinic classification 277
issued under section 4729.552 of the Revised Code; 278

(b) A business entity described in division (B) (1) (j) of 279
this section that is, or is operating, a pain management clinic 280
without a license as a terminal distributor of dangerous drugs 281
with a pain management clinic classification issued under 282
section 4729.552 of the Revised Code; 283

(c) A business entity described in division (B) (1) (k) of 284
this section that is, or is operating, a pain management clinic 285
without a license as a terminal distributor of dangerous drugs 286
with a pain management clinic classification issued under 287
section 4729.552 of the Revised Code. 288

(3) No registered wholesale distributor of dangerous drugs 289
shall possess dangerous drugs for sale at wholesale, or sell 290
such drugs at wholesale, to a licensed terminal distributor of 291
dangerous drugs, except as follows: 292

(a) In the case of a terminal distributor with a category 293
I license, only dangerous drugs described in category I, as 294
defined in division (A) (1) of section 4729.54 of the Revised 295
Code; 296

(b) In the case of a terminal distributor with a category 297
II license, only dangerous drugs described in category I and 298
category II, as defined in divisions (A) (1) and (2) of section 299
4729.54 of the Revised Code; 300

(c) In the case of a terminal distributor with a category 301
III license, dangerous drugs described in category I, category 302
II, and category III, as defined in divisions (A) (1), (2), and 303
(3) of section 4729.54 of the Revised Code; 304

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

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

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

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

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

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

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

apply to an individual who holds a valid certificate issued by a 334
nationally recognized S.C.U.B.A. diving certifying organization 335
approved by the state board of pharmacy in rule, but only to the 336
extent that the individual possesses medical oxygen or 337
personally supplies medical oxygen for the purpose of emergency 338
care or treatment at the scene of a diving emergency. 339

Division (C) (3) of this section does not apply to the 340
board of education of a city, local, exempted village, or joint 341
vocational school district, a school building operated by a 342
school district board of education, a chartered or nonchartered 343
nonpublic school, a community school, a STEM school, or a 344
college-preparatory boarding school for the purpose of 345
possessing epinephrine autoinjectors under section 3313.7110, 346
3313.7111, 3314.143, 3326.28, or 3328.29 of the Revised Code. 347

Division (C) (3) of this section does not apply to a 348
residential camp, as defined in section 2151.011 of the Revised 349
Code, a child day camp, as defined in section 5104.01 of the 350
Revised Code, or a child day camp operated by any county, 351
township, municipal corporation, township park district created 352
under section 511.18 of the Revised Code, park district created 353
under section 1545.04 of the Revised Code, or joint recreation 354
district established under section 755.14 of the Revised Code 355
for the purpose of possessing epinephrine autoinjectors under 356
section 5101.76 of the Revised Code. 357

Division (C) (3) of this section does not apply to a law 358
enforcement agency or the agency's peace officers if the agency 359
or officers possess naloxone for administration to individuals 360
who are apparently experiencing opioid-related overdoses. 361

Divisions (C) (1), (2), and (3) of this section do not 362
apply to a manufacturer of dangerous drugs that provides an 363

investigational drug, product, or device to an eligible patient 364
under section 4729.88 of the Revised Code or to the patient's 365
treating physician as defined in section 4731.96 of the Revised 366
Code. 367

(D) No licensed terminal distributor of dangerous drugs 368
shall purchase for the purpose of resale dangerous drugs from 369
any person other than a registered wholesale distributor of 370
dangerous drugs, except as follows: 371

(1) A licensed terminal distributor of dangerous drugs may 372
make occasional purchases of dangerous drugs for resale from a 373
pharmacist who is a licensed terminal distributor of dangerous 374
drugs or who is employed by a licensed terminal distributor of 375
dangerous drugs; 376

(2) A licensed terminal distributor of dangerous drugs 377
having more than one establishment or place may transfer or 378
receive dangerous drugs from one establishment or place for 379
which a license has been issued to the terminal distributor to 380
another establishment or place for which a license has been 381
issued to the terminal distributor if the license issued for 382
each establishment or place is in effect at the time of the 383
transfer or receipt. 384

(E) No licensed terminal distributor of dangerous drugs 385
shall engage in the sale or other distribution of dangerous 386
drugs at retail or maintain possession, custody, or control of 387
dangerous drugs for any purpose other than the distributor's 388
personal use or consumption, at any establishment or place other 389
than that or those described in the license issued by the state 390
board of pharmacy to such terminal distributor. 391

(F) Nothing in this section shall be construed to 392

interfere with the performance of official duties by any law 393
enforcement official authorized by municipal, county, state, or 394
federal law to collect samples of any drug, regardless of its 395
nature or in whose possession it may be. 396

(G) Notwithstanding anything to the contrary in this 397
section, the board of education of a city, local, exempted 398
village, or joint vocational school district may deliver 399
epinephrine autoinjectors to a school under its control for the 400
purpose of possessing epinephrine autoinjectors under section 401
3313.7110 of the Revised Code. 402

Sec. 4729.57. (A) The state board of pharmacy may suspend, 403
revoke, or refuse to grant or renew any license as a terminal 404
distributor of dangerous drugs, or may impose a monetary penalty 405
or forfeiture not to exceed in severity any fine designated 406
under the Revised Code for a similar offense or one thousand 407
dollars if the acts committed have not been classified as an 408
offense by the Revised Code, for any of the following causes: 409

(1) Making any false material statements in an application 410
for a license as a terminal distributor of dangerous drugs; 411

(2) Violating any rule of the board; 412

(3) Violating any provision of this chapter; 413

(4) ~~Violating~~ Except as provided in section 4729.88 of the 414
Revised Code, violating any provision of the "Federal Food, 415
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 416
or Chapter 3715. of the Revised Code; 417

(5) Violating any provision of the federal drug abuse 418
control laws or Chapter 2925. or 3719. of the Revised Code; 419

(6) Falsely or fraudulently promoting to the public a 420

dangerous drug, except that nothing in this division prohibits a 421
terminal distributor of dangerous drugs from furnishing 422
information concerning a dangerous drug to a health care 423
provider or another licensed terminal distributor; 424

(7) Ceasing to satisfy the qualifications of a terminal 425
distributor of dangerous drugs set forth in section 4729.55 of 426
the Revised Code; 427

(8) Except as provided in division (B) of this section: 428

(a) Waiving the payment of all or any part of a deductible 429
or copayment that an individual, pursuant to a health insurance 430
or health care policy, contract, or plan that covers the 431
services provided by a terminal distributor of dangerous drugs, 432
would otherwise be required to pay for the services if the 433
waiver is used as an enticement to a patient or group of 434
patients to receive pharmacy services from that terminal 435
distributor; 436

(b) Advertising that the terminal distributor will waive 437
the payment of all or any part of a deductible or copayment that 438
an individual, pursuant to a health insurance or health care 439
policy, contract, or plan that covers the pharmaceutical 440
services, would otherwise be required to pay for the services. 441

(B) Sanctions shall not be imposed under division (A) (8) 442
of this section against any terminal distributor of dangerous 443
drugs that waives deductibles and copayments as follows: 444

(1) In compliance with a health benefit plan that 445
expressly allows such a practice. Waiver of the deductibles or 446
copayments shall be made only with the full knowledge and 447
consent of the plan purchaser, payer, and third-party 448
administrator. Documentation of the consent shall be made 449

available to the board on request. 450

(2) For professional services rendered to any other person 451
licensed pursuant to this chapter to the extent allowed by this 452
chapter and the rules of the board. 453

(C) (1) Upon the suspension or revocation of a license 454
issued to a terminal distributor of dangerous drugs or the 455
refusal by the board to renew such a license, the distributor 456
shall immediately surrender the license to the board. 457

(2) The board may place under seal all dangerous drugs 458
that are owned by or in the possession, custody, or control of a 459
terminal distributor at the time the license is suspended or 460
revoked or at the time the board refuses to renew the license. 461
Except as otherwise provided in this division, dangerous drugs 462
so sealed shall not be disposed of until appeal rights under 463
Chapter 119. of the Revised Code have expired or an appeal filed 464
pursuant to that chapter has been determined. 465

The court involved in an appeal filed pursuant to Chapter 466
119. of the Revised Code may order the board, during the 467
pendency of the appeal, to sell sealed dangerous drugs that are 468
perishable. The proceeds of such a sale shall be deposited with 469
that court. 470

Sec. 4729.88. (A) As used in this section and section 471
4729.89 of the Revised Code, "eligible patient," 472
"investigational drug, product, or device," "terminal illness," 473
and "treating physician" have the same meanings as in section 474
4731.96 of the Revised Code. 475

(B) A manufacturer of dangerous drugs may, in accordance 476
with section 4731.96 of the Revised Code, provide an 477
investigational drug, product, or device for treatment of a 478

terminal illness to an eligible patient or to the treating 479
physician treating the eligible patient's terminal illness. 480

The manufacturer may do all of the following: 481

(1) Provide the investigational drug, product, or device 482
to the patient or treating physician directly or through a 483
terminal distributor of dangerous drugs; 484

(2) Provide the investigational drug, product, or device 485
without charge or charge for the costs associated with 486
manufacturing and providing the investigational drug, product, 487
or device; 488

(3) Require the eligible patient to participate in data 489
collection relating to use of the investigational drug, product, 490
or device. 491

(C) Except for actions or omissions constituting willful 492
or wanton misconduct: 493

(1) A manufacturer or terminal distributor of dangerous 494
drugs that provides or distributes an investigational drug, 495
product, or device pursuant to this section and section 4731.96 496
of the Revised Code is not liable for or subject to damages in 497
any civil action or prosecution in any criminal proceeding for 498
actions or omissions related to providing or distributing the 499
investigational drug, product, or device. 500

(2) A terminal distributor of dangerous drugs that 501
distributes an investigational drug, product, or device pursuant 502
to this section and section 4731.96 of the Revised Code is not 503
subject to any action related to its license under Chapter 4729. 504
of the Revised Code for actions or omissions related to 505
distributing the investigationalinvestgational drug, product, or 506
device. 507

(D) Nothing in this section shall be interpreted as 508
requiring a manufacturer or terminal distributor to provide an 509
investigational drug, product, or device to a patient or the 510
patient's treating physician. 511

Sec. 4729.89. No official, employee, or agent of the state 512
shall prevent or attempt to prevent access by an eligible 513
patient or eligible patient's treating physician to an 514
investigational drug, product, or device that is being provided 515
or is to be provided in accordance with section 4729.88 or 516
4731.96 of the Revised Code. 517

Sec. 4731.22. (A) The state medical board, by an 518
affirmative vote of not fewer than six of its members, may 519
limit, revoke, or suspend an individual's certificate to 520
practice, refuse to grant a certificate to an individual, refuse 521
to register an individual, refuse to reinstate a certificate, or 522
reprimand or place on probation the holder of a certificate if 523
the individual or certificate holder is found by the board to 524
have committed fraud during the administration of the 525
examination for a certificate to practice or to have committed 526
fraud, misrepresentation, or deception in applying for or 527
securing any certificate to practice or certificate of 528
registration issued by the board. 529

(B) The board, by an affirmative vote of not fewer than 530
six members, shall, to the extent permitted by law, limit, 531
revoke, or suspend an individual's certificate to practice, 532
refuse to register an individual, refuse to reinstate a 533
certificate, or reprimand or place on probation the holder of a 534
certificate for one or more of the following reasons: 535

(1) Permitting one's name or one's certificate to practice 536
or certificate of registration to be used by a person, group, or 537

corporation when the individual concerned is not actually 538
directing the treatment given; 539

(2) Failure to maintain minimal standards applicable to 540
the selection or administration of drugs, or failure to employ 541
acceptable scientific methods in the selection of drugs or other 542
modalities for treatment of disease; 543

(3) ~~Selling~~ Except as provided in section 4731.96 of the 544
Revised Code, selling, giving away, personally furnishing, 545
prescribing, or administering drugs for other than legal and 546
legitimate therapeutic purposes or a plea of guilty to, a 547
judicial finding of guilt of, or a judicial finding of 548
eligibility for intervention in lieu of conviction of, a 549
violation of any federal or state law regulating the possession, 550
distribution, or use of any drug; 551

(4) Willfully betraying a professional confidence. 552

For purposes of this division, "willfully betraying a 553
professional confidence" does not include providing any 554
information, documents, or reports to a child fatality review 555
board under sections 307.621 to 307.629 of the Revised Code and 556
does not include the making of a report of an employee's use of 557
a drug of abuse, or a report of a condition of an employee other 558
than one involving the use of a drug of abuse, to the employer 559
of the employee as described in division (B) of section 2305.33 560
of the Revised Code. Nothing in this division affects the 561
immunity from civil liability conferred by that section upon a 562
physician who makes either type of report in accordance with 563
division (B) of that section. As used in this division, 564
"employee," "employer," and "physician" have the same meanings 565
as in section 2305.33 of the Revised Code. 566

(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 624
professional organizations that the board specifies by rule. The 625
state medical board shall obtain and keep on file current copies 626
of the codes of ethics of the various national professional 627
organizations. The individual whose certificate is being 628
suspended or revoked shall not be found to have violated any 629
provision of a code of ethics of an organization not appropriate 630
to the individual's profession. 631

For purposes of this division, a "provision of a code of 632
ethics of a national professional organization" does not include 633
any provision that would preclude the making of a report by a 634
physician of an employee's use of a drug of abuse, or of a 635
condition of an employee other than one involving the use of a 636
drug of abuse, to the employer of the employee as described in 637
division (B) of section 2305.33 of the Revised Code. Nothing in 638
this division affects the immunity from civil liability 639
conferred by that section upon a physician who makes either type 640
of report in accordance with division (B) of that section. As 641
used in this division, "employee," "employer," and "physician" 642
have the same meanings as in section 2305.33 of the Revised 643
Code. 644

(19) Inability to practice according to acceptable and 645
prevailing standards of care by reason of mental illness or 646
physical illness, including, but not limited to, physical 647
deterioration that adversely affects cognitive, motor, or 648
perceptive skills. 649

In enforcing this division, the board, upon a showing of a 650
possible violation, may compel any individual authorized to 651
practice by this chapter or who has submitted an application 652
pursuant to this chapter to submit to a mental examination, 653

physical examination, including an HIV test, or both a mental 654
and a physical examination. The expense of the examination is 655
the responsibility of the individual compelled to be examined. 656
Failure to submit to a mental or physical examination or consent 657
to an HIV test ordered by the board constitutes an admission of 658
the allegations against the individual unless the failure is due 659
to circumstances beyond the individual's control, and a default 660
and final order may be entered without the taking of testimony 661
or presentation of evidence. If the board finds an individual 662
unable to practice because of the reasons set forth in this 663
division, the board shall require the individual to submit to 664
care, counseling, or treatment by physicians approved or 665
designated by the board, as a condition for initial, continued, 666
reinstated, or renewed authority to practice. An individual 667
affected under this division shall be afforded an opportunity to 668
demonstrate to the board the ability to resume practice in 669
compliance with acceptable and prevailing standards under the 670
provisions of the individual's certificate. For the purpose of 671
this division, any individual who applies for or receives a 672
certificate to practice under this chapter accepts the privilege 673
of practicing in this state and, by so doing, shall be deemed to 674
have given consent to submit to a mental or physical examination 675
when directed to do so in writing by the board, and to have 676
waived all objections to the admissibility of testimony or 677
examination reports that constitute a privileged communication. 678

(20) Except when civil penalties are imposed under section 679
4731.225 or 4731.281 of the Revised Code, and subject to section 680
4731.226 of the Revised Code, violating or attempting to 681
violate, directly or indirectly, or assisting in or abetting the 682
violation of, or conspiring to violate, any provisions of this 683
chapter or any rule promulgated by the board. 684

This division does not apply to a violation or attempted 685
violation of, assisting in or abetting the violation of, or a 686
conspiracy to violate, any provision of this chapter or any rule 687
adopted by the board that would preclude the making of a report 688
by a physician of an employee's use of a drug of abuse, or of a 689
condition of an employee other than one involving the use of a 690
drug of abuse, to the employer of the employee as described in 691
division (B) of section 2305.33 of the Revised Code. Nothing in 692
this division affects the immunity from civil liability 693
conferred by that section upon a physician who makes either type 694
of report in accordance with division (B) of that section. As 695
used in this division, "employee," "employer," and "physician" 696
have the same meanings as in section 2305.33 of the Revised 697
Code. 698

(21) The violation of section 3701.79 of the Revised Code 699
or of any abortion rule adopted by the public health council 700
pursuant to section 3701.341 of the Revised Code; 701

(22) Any of the following actions taken by an agency 702
responsible for authorizing, certifying, or regulating an 703
individual to practice a health care occupation or provide 704
health care services in this state or another jurisdiction, for 705
any reason other than the nonpayment of fees: the limitation, 706
revocation, or suspension of an individual's license to 707
practice; acceptance of an individual's license surrender; 708
denial of a license; refusal to renew or reinstate a license; 709
imposition of probation; or issuance of an order of censure or 710
other reprimand; 711

(23) The violation of section 2919.12 of the Revised Code 712
or the performance or inducement of an abortion upon a pregnant 713
woman with actual knowledge that the conditions specified in 714

division (B) of section 2317.56 of the Revised Code have not 715
been satisfied or with a heedless indifference as to whether 716
those conditions have been satisfied, unless an affirmative 717
defense as specified in division (H) (2) of that section would 718
apply in a civil action authorized by division (H) (1) of that 719
section; 720

(24) The revocation, suspension, restriction, reduction, 721
or termination of clinical privileges by the United States 722
department of defense or department of veterans affairs or the 723
termination or suspension of a certificate of registration to 724
prescribe drugs by the drug enforcement administration of the 725
United States department of justice; 726

(25) Termination or suspension from participation in the 727
medicare or medicaid programs by the department of health and 728
human services or other responsible agency for any act or acts 729
that also would constitute a violation of division (B) (2), (3), 730
(6), (8), or (19) of this section; 731

(26) Impairment of ability to practice according to 732
acceptable and prevailing standards of care because of habitual 733
or excessive use or abuse of drugs, alcohol, or other substances 734
that impair ability to practice. 735

For the purposes of this division, any individual 736
authorized to practice by this chapter accepts the privilege of 737
practicing in this state subject to supervision by the board. By 738
filing an application for or holding a certificate to practice 739
under this chapter, an individual shall be deemed to have given 740
consent to submit to a mental or physical examination when 741
ordered to do so by the board in writing, and to have waived all 742
objections to the admissibility of testimony or examination 743
reports that constitute privileged communications. 744

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; 804

(b) Advertising that the individual will waive the payment 805
of all or any part of a deductible or copayment that a patient, 806
pursuant to a health insurance or health care policy, contract, 807
or plan that covers the individual's services, otherwise would 808
be required to pay. 809

(29) Failure to use universal blood and body fluid 810
precautions established by rules adopted under section 4731.051 811
of the Revised Code; 812

(30) Failure to provide notice to, and receive 813
acknowledgment of the notice from, a patient when required by 814
section 4731.143 of the Revised Code prior to providing 815
nonemergency professional services, or failure to maintain that 816
notice in the patient's file; 817

(31) Failure of a physician supervising a physician 818
assistant to maintain supervision in accordance with the 819
requirements of Chapter 4730. of the Revised Code and the rules 820
adopted under that chapter; 821

(32) Failure of a physician or podiatrist to enter into a 822
standard care arrangement with a clinical nurse specialist, 823
certified nurse-midwife, or certified nurse practitioner with 824
whom the physician or podiatrist is in collaboration pursuant to 825
section 4731.27 of the Revised Code or failure to fulfill the 826
responsibilities of collaboration after entering into a standard 827
care arrangement; 828

(33) Failure to comply with the terms of a consult 829
agreement entered into with a pharmacist pursuant to section 830
4729.39 of the Revised Code; 831

(34) Failure to cooperate in an investigation conducted by 832

the board under division (F) of this section, including failure 833
to comply with a subpoena or order issued by the board or 834
failure to answer truthfully a question presented by the board 835
in an investigative interview, an investigative office 836
conference, at a deposition, or in written interrogatories, 837
except that failure to cooperate with an investigation shall not 838
constitute grounds for discipline under this section if a court 839
of competent jurisdiction has issued an order that either 840
quashes a subpoena or permits the individual to withhold the 841
testimony or evidence in issue; 842

(35) Failure to supervise an oriental medicine 843
practitioner or acupuncturist in accordance with Chapter 4762. 844
of the Revised Code and the board's rules for providing that 845
supervision; 846

(36) Failure to supervise an anesthesiologist assistant in 847
accordance with Chapter 4760. of the Revised Code and the 848
board's rules for supervision of an anesthesiologist assistant; 849

(37) Assisting suicide as defined in section 3795.01 of 850
the Revised Code; 851

(38) Failure to comply with the requirements of section 852
2317.561 of the Revised Code; 853

(39) Failure to supervise a radiologist assistant in 854
accordance with Chapter 4774. of the Revised Code and the 855
board's rules for supervision of radiologist assistants; 856

(40) Performing or inducing an abortion at an office or 857
facility with knowledge that the office or facility fails to 858
post the notice required under section 3701.791 of the Revised 859
Code; 860

(41) Failure to comply with the standards and procedures 861

established in rules under section 4731.054 of the Revised Code 862
for the operation of or the provision of care at a pain 863
management clinic; 864

(42) Failure to comply with the standards and procedures 865
established in rules under section 4731.054 of the Revised Code 866
for providing supervision, direction, and control of individuals 867
at a pain management clinic; 868

(43) Failure to comply with the requirements of section 869
4729.79 or 4731.055 of the Revised Code, unless the state board 870
of pharmacy no longer maintains a drug database pursuant to 871
section 4729.75 of the Revised Code; 872

(44) Failure to comply with the requirements of section 873
2919.171 of the Revised Code or failure to submit to the 874
department of health in accordance with a court order a complete 875
report as described in section 2919.171 of the Revised Code; 876

(45) Practicing at a facility that is subject to licensure 877
as a category III terminal distributor of dangerous drugs with a 878
pain management clinic classification unless the person 879
operating the facility has obtained and maintains the license 880
with the classification; 881

(46) Owning a facility that is subject to licensure as a 882
category III terminal distributor of dangerous drugs with a pain 883
management clinic classification unless the facility is licensed 884
with the classification; 885

(47) Failure to comply with the requirement regarding 886
maintaining notes described in division (B) of section 2919.191 887
of the Revised Code or failure to satisfy the requirements of 888
section 2919.191 of the Revised Code prior to performing or 889
inducing an abortion upon a pregnant woman; 890

(48) Failure to comply with the requirements in section 891
3719.061 of the Revised Code before issuing to a minor a 892
prescription for a controlled substance containing an opioid. 893

(C) Disciplinary actions taken by the board under 894
divisions (A) and (B) of this section shall be taken pursuant to 895
an adjudication under Chapter 119. of the Revised Code, except 896
that in lieu of an adjudication, the board may enter into a 897
consent agreement with an individual to resolve an allegation of 898
a violation of this chapter or any rule adopted under it. A 899
consent agreement, when ratified by an affirmative vote of not 900
fewer than six members of the board, shall constitute the 901
findings and order of the board with respect to the matter 902
addressed in the agreement. If the board refuses to ratify a 903
consent agreement, the admissions and findings contained in the 904
consent agreement shall be of no force or effect. 905

A telephone conference call may be utilized for 906
ratification of a consent agreement that revokes or suspends an 907
individual's certificate to practice. The telephone conference 908
call shall be considered a special meeting under division (F) of 909
section 121.22 of the Revised Code. 910

If the board takes disciplinary action against an 911
individual under division (B) of this section for a second or 912
subsequent plea of guilty to, or judicial finding of guilt of, a 913
violation of section 2919.123 of the Revised Code, the 914
disciplinary action shall consist of a suspension of the 915
individual's certificate to practice for a period of at least 916
one year or, if determined appropriate by the board, a more 917
serious sanction involving the individual's certificate to 918
practice. Any consent agreement entered into under this division 919
with an individual that pertains to a second or subsequent plea 920

of guilty to, or judicial finding of guilt of, a violation of 921
that section shall provide for a suspension of the individual's 922
certificate to practice for a period of at least one year or, if 923
determined appropriate by the board, a more serious sanction 924
involving the individual's certificate to practice. 925

(D) For purposes of divisions (B) (10), (12), and (14) of 926
this section, the commission of the act may be established by a 927
finding by the board, pursuant to an adjudication under Chapter 928
119. of the Revised Code, that the individual committed the act. 929
The board does not have jurisdiction under those divisions if 930
the trial court renders a final judgment in the individual's 931
favor and that judgment is based upon an adjudication on the 932
merits. The board has jurisdiction under those divisions if the 933
trial court issues an order of dismissal upon technical or 934
procedural grounds. 935

(E) The sealing of conviction records by any court shall 936
have no effect upon a prior board order entered under this 937
section or upon the board's jurisdiction to take action under 938
this section if, based upon a plea of guilty, a judicial finding 939
of guilt, or a judicial finding of eligibility for intervention 940
in lieu of conviction, the board issued a notice of opportunity 941
for a hearing prior to the court's order to seal the records. 942
The board shall not be required to seal, destroy, redact, or 943
otherwise modify its records to reflect the court's sealing of 944
conviction records. 945

(F) (1) The board shall investigate evidence that appears 946
to show that a person has violated any provision of this chapter 947
or any rule adopted under it. Any person may report to the board 948
in a signed writing any information that the person may have 949
that appears to show a violation of any provision of this 950

chapter or any rule adopted under it. In the absence of bad 951
faith, any person who reports information of that nature or who 952
testifies before the board in any adjudication conducted under 953
Chapter 119. of the Revised Code shall not be liable in damages 954
in a civil action as a result of the report or testimony. Each 955
complaint or allegation of a violation received by the board 956
shall be assigned a case number and shall be recorded by the 957
board. 958

(2) Investigations of alleged violations of this chapter 959
or any rule adopted under it shall be supervised by the 960
supervising member elected by the board in accordance with 961
section 4731.02 of the Revised Code and by the secretary as 962
provided in section 4731.39 of the Revised Code. The president 963
may designate another member of the board to supervise the 964
investigation in place of the supervising member. No member of 965
the board who supervises the investigation of a case shall 966
participate in further adjudication of the case. 967

(3) In investigating a possible violation of this chapter 968
or any rule adopted under this chapter, or in conducting an 969
inspection under division (E) of section 4731.054 of the Revised 970
Code, the board may question witnesses, conduct interviews, 971
administer oaths, order the taking of depositions, inspect and 972
copy any books, accounts, papers, records, or documents, issue 973
subpoenas, and compel the attendance of witnesses and production 974
of books, accounts, papers, records, documents, and testimony, 975
except that a subpoena for patient record information shall not 976
be issued without consultation with the attorney general's 977
office and approval of the secretary and supervising member of 978
the board. 979

(a) Before issuance of a subpoena for patient record 980

information, the secretary and supervising member shall 981
determine whether there is probable cause to believe that the 982
complaint filed alleges a violation of this chapter or any rule 983
adopted under it and that the records sought are relevant to the 984
alleged violation and material to the investigation. The 985
subpoena may apply only to records that cover a reasonable 986
period of time surrounding the alleged violation. 987

(b) On failure to comply with any subpoena issued by the 988
board and after reasonable notice to the person being 989
subpoenaed, the board may move for an order compelling the 990
production of persons or records pursuant to the Rules of Civil 991
Procedure. 992

(c) A subpoena issued by the board may be served by a 993
sheriff, the sheriff's deputy, or a board employee designated by 994
the board. Service of a subpoena issued by the board may be made 995
by delivering a copy of the subpoena to the person named 996
therein, reading it to the person, or leaving it at the person's 997
usual place of residence, usual place of business, or address on 998
file with the board. When serving a subpoena to an applicant for 999
or the holder of a certificate issued under this chapter, 1000
service of the subpoena may be made by certified mail, return 1001
receipt requested, and the subpoena shall be deemed served on 1002
the date delivery is made or the date the person refuses to 1003
accept delivery. If the person being served refuses to accept 1004
the subpoena or is not located, service may be made to an 1005
attorney who notifies the board that the attorney is 1006
representing the person. 1007

(d) A sheriff's deputy who serves a subpoena shall receive 1008
the same fees as a sheriff. Each witness who appears before the 1009
board in obedience to a subpoena shall receive the fees and 1010

mileage provided for under section 119.094 of the Revised Code. 1011

(4) All hearings, investigations, and inspections of the 1012
board shall be considered civil actions for the purposes of 1013
section 2305.252 of the Revised Code. 1014

(5) A report required to be submitted to the board under 1015
this chapter, a complaint, or information received by the board 1016
pursuant to an investigation or pursuant to an inspection under 1017
division (E) of section 4731.054 of the Revised Code is 1018
confidential and not subject to discovery in any civil action. 1019

The board shall conduct all investigations or inspections 1020
and proceedings in a manner that protects the confidentiality of 1021
patients and persons who file complaints with the board. The 1022
board shall not make public the names or any other identifying 1023
information about patients or complainants unless proper consent 1024
is given or, in the case of a patient, a waiver of the patient 1025
privilege exists under division (B) of section 2317.02 of the 1026
Revised Code, except that consent or a waiver of that nature is 1027
not required if the board possesses reliable and substantial 1028
evidence that no bona fide physician-patient relationship 1029
exists. 1030

The board may share any information it receives pursuant 1031
to an investigation or inspection, including patient records and 1032
patient record information, with law enforcement agencies, other 1033
licensing boards, and other governmental agencies that are 1034
prosecuting, adjudicating, or investigating alleged violations 1035
of statutes or administrative rules. An agency or board that 1036
receives the information shall comply with the same requirements 1037
regarding confidentiality as those with which the state medical 1038
board must comply, notwithstanding any conflicting provision of 1039
the Revised Code or procedure of the agency or board that 1040

applies when it is dealing with other information in its 1041
possession. In a judicial proceeding, the information may be 1042
admitted into evidence only in accordance with the Rules of 1043
Evidence, but the court shall require that appropriate measures 1044
are taken to ensure that confidentiality is maintained with 1045
respect to any part of the information that contains names or 1046
other identifying information about patients or complainants 1047
whose confidentiality was protected by the state medical board 1048
when the information was in the board's possession. Measures to 1049
ensure confidentiality that may be taken by the court include 1050
sealing its records or deleting specific information from its 1051
records. 1052

(6) On a quarterly basis, the board shall prepare a report 1053
that documents the disposition of all cases during the preceding 1054
three months. The report shall contain the following information 1055
for each case with which the board has completed its activities: 1056

(a) The case number assigned to the complaint or alleged 1057
violation; 1058

(b) The type of certificate to practice, if any, held by 1059
the individual against whom the complaint is directed; 1060

(c) A description of the allegations contained in the 1061
complaint; 1062

(d) The disposition of the case. 1063

The report shall state how many cases are still pending 1064
and shall be prepared in a manner that protects the identity of 1065
each person involved in each case. The report shall be a public 1066
record under section 149.43 of the Revised Code. 1067

(G) If the secretary and supervising member determine both 1068
of the following, they may recommend that the board suspend an 1069

individual's certificate to practice without a prior hearing: 1070

(1) That there is clear and convincing evidence that an 1071
individual has violated division (B) of this section; 1072

(2) That the individual's continued practice presents a 1073
danger of immediate and serious harm to the public. 1074

Written allegations shall be prepared for consideration by 1075
the board. The board, upon review of those allegations and by an 1076
affirmative vote of not fewer than six of its members, excluding 1077
the secretary and supervising member, may suspend a certificate 1078
without a prior hearing. A telephone conference call may be 1079
utilized for reviewing the allegations and taking the vote on 1080
the summary suspension. 1081

The board shall issue a written order of suspension by 1082
certified mail or in person in accordance with section 119.07 of 1083
the Revised Code. The order shall not be subject to suspension 1084
by the court during pendency of any appeal filed under section 1085
119.12 of the Revised Code. If the individual subject to the 1086
summary suspension requests an adjudicatory hearing by the 1087
board, the date set for the hearing shall be within fifteen 1088
days, but not earlier than seven days, after the individual 1089
requests the hearing, unless otherwise agreed to by both the 1090
board and the individual. 1091

Any summary suspension imposed under this division shall 1092
remain in effect, unless reversed on appeal, until a final 1093
adjudicative order issued by the board pursuant to this section 1094
and Chapter 119. of the Revised Code becomes effective. The 1095
board shall issue its final adjudicative order within seventy- 1096
five days after completion of its hearing. A failure to issue 1097
the order within seventy-five days shall result in dissolution 1098

of the summary suspension order but shall not invalidate any 1099
subsequent, final adjudicative order. 1100

(H) If the board takes action under division (B) (9), (11), 1101
or (13) of this section and the judicial finding of guilt, 1102
guilty plea, or judicial finding of eligibility for intervention 1103
in lieu of conviction is overturned on appeal, upon exhaustion 1104
of the criminal appeal, a petition for reconsideration of the 1105
order may be filed with the board along with appropriate court 1106
documents. Upon receipt of a petition of that nature and 1107
supporting court documents, the board shall reinstate the 1108
individual's certificate to practice. The board may then hold an 1109
adjudication under Chapter 119. of the Revised Code to determine 1110
whether the individual committed the act in question. Notice of 1111
an opportunity for a hearing shall be given in accordance with 1112
Chapter 119. of the Revised Code. If the board finds, pursuant 1113
to an adjudication held under this division, that the individual 1114
committed the act or if no hearing is requested, the board may 1115
order any of the sanctions identified under division (B) of this 1116
section. 1117

(I) The certificate to practice issued to an individual 1118
under this chapter and the individual's practice in this state 1119
are automatically suspended as of the date of the individual's 1120
second or subsequent plea of guilty to, or judicial finding of 1121
guilt of, a violation of section 2919.123 of the Revised Code, 1122
or the date the individual pleads guilty to, is found by a judge 1123
or jury to be guilty of, or is subject to a judicial finding of 1124
eligibility for intervention in lieu of conviction in this state 1125
or treatment or intervention in lieu of conviction in another 1126
jurisdiction for any of the following criminal offenses in this 1127
state or a substantially equivalent criminal offense in another 1128
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1129

felonious assault, kidnapping, rape, sexual battery, gross 1130
sexual imposition, aggravated arson, aggravated robbery, or 1131
aggravated burglary. Continued practice after suspension shall 1132
be considered practicing without a certificate. 1133

The board shall notify the individual subject to the 1134
suspension by certified mail or in person in accordance with 1135
section 119.07 of the Revised Code. If an individual whose 1136
certificate is automatically suspended under this division fails 1137
to make a timely request for an adjudication under Chapter 119. 1138
of the Revised Code, the board shall do whichever of the 1139
following is applicable: 1140

(1) If the automatic suspension under this division is for 1141
a second or subsequent plea of guilty to, or judicial finding of 1142
guilt of, a violation of section 2919.123 of the Revised Code, 1143
the board shall enter an order suspending the individual's 1144
certificate to practice for a period of at least one year or, if 1145
determined appropriate by the board, imposing a more serious 1146
sanction involving the individual's certificate to practice. 1147

(2) In all circumstances in which division (I)(1) of this 1148
section does not apply, enter a final order permanently revoking 1149
the individual's certificate to practice. 1150

(J) If the board is required by Chapter 119. of the 1151
Revised Code to give notice of an opportunity for a hearing and 1152
if the individual subject to the notice does not timely request 1153
a hearing in accordance with section 119.07 of the Revised Code, 1154
the board is not required to hold a hearing, but may adopt, by 1155
an affirmative vote of not fewer than six of its members, a 1156
final order that contains the board's findings. In that final 1157
order, the board may order any of the sanctions identified under 1158
division (A) or (B) of this section. 1159

(K) Any action taken by the board under division (B) of 1160
this section resulting in a suspension from practice shall be 1161
accompanied by a written statement of the conditions under which 1162
the individual's certificate to practice may be reinstated. The 1163
board shall adopt rules governing conditions to be imposed for 1164
reinstatement. Reinstatement of a certificate suspended pursuant 1165
to division (B) of this section requires an affirmative vote of 1166
not fewer than six members of the board. 1167

(L) When the board refuses to grant a certificate to an 1168
applicant, revokes an individual's certificate to practice, 1169
refuses to register an applicant, or refuses to reinstate an 1170
individual's certificate to practice, the board may specify that 1171
its action is permanent. An individual subject to a permanent 1172
action taken by the board is forever thereafter ineligible to 1173
hold a certificate to practice and the board shall not accept an 1174
application for reinstatement of the certificate or for issuance 1175
of a new certificate. 1176

(M) Notwithstanding any other provision of the Revised 1177
Code, all of the following apply: 1178

(1) The surrender of a certificate issued under this 1179
chapter shall not be effective unless or until accepted by the 1180
board. A telephone conference call may be utilized for 1181
acceptance of the surrender of an individual's certificate to 1182
practice. The telephone conference call shall be considered a 1183
special meeting under division (F) of section 121.22 of the 1184
Revised Code. Reinstatement of a certificate surrendered to the 1185
board requires an affirmative vote of not fewer than six members 1186
of the board. 1187

(2) An application for a certificate made under the 1188
provisions of this chapter may not be withdrawn without approval 1189

of the board. 1190

(3) Failure by an individual to renew a certificate of 1191
registration in accordance with this chapter shall not remove or 1192
limit the board's jurisdiction to take any disciplinary action 1193
under this section against the individual. 1194

(4) At the request of the board, a certificate holder 1195
shall immediately surrender to the board a certificate that the 1196
board has suspended, revoked, or permanently revoked. 1197

(N) Sanctions shall not be imposed under division (B) (28) 1198
of this section against any person who waives deductibles and 1199
copayments as follows: 1200

(1) In compliance with the health benefit plan that 1201
expressly allows such a practice. Waiver of the deductibles or 1202
copayments shall be made only with the full knowledge and 1203
consent of the plan purchaser, payer, and third-party 1204
administrator. Documentation of the consent shall be made 1205
available to the board upon request. 1206

(2) For professional services rendered to any other person 1207
authorized to practice pursuant to this chapter, to the extent 1208
allowed by this chapter and rules adopted by the board. 1209

(O) Under the board's investigative duties described in 1210
this section and subject to division (F) of this section, the 1211
board shall develop and implement a quality intervention program 1212
designed to improve through remedial education the clinical and 1213
communication skills of individuals authorized under this 1214
chapter to practice medicine and surgery, osteopathic medicine 1215
and surgery, and podiatric medicine and surgery. In developing 1216
and implementing the quality intervention program, the board may 1217
do all of the following: 1218

(1) Offer in appropriate cases as determined by the board	1219
an educational and assessment program pursuant to an	1220
investigation the board conducts under this section;	1221
(2) Select providers of educational and assessment	1222
services, including a quality intervention program panel of case	1223
reviewers;	1224
(3) Make referrals to educational and assessment service	1225
providers and approve individual educational programs	1226
recommended by those providers. The board shall monitor the	1227
progress of each individual undertaking a recommended individual	1228
educational program.	1229
(4) Determine what constitutes successful completion of an	1230
individual educational program and require further monitoring of	1231
the individual who completed the program or other action that	1232
the board determines to be appropriate;	1233
(5) Adopt rules in accordance with Chapter 119. of the	1234
Revised Code to further implement the quality intervention	1235
program.	1236
An individual who participates in an individual	1237
educational program pursuant to this division shall pay the	1238
financial obligations arising from that educational program.	1239
Sec. 4731.227. An individual authorized to practice	1240
medicine and surgery or osteopathic medicine and surgery may use	1241
alternative medical treatments if the individual has provided	1242
the information necessary to obtain informed consent from the	1243
patient and the treatment meets the standards enforced by the	1244
state medical board pursuant to section 4731.22 of the Revised	1245
Code and any rules adopted by the board.	1246
As used in this section, "alternative medical treatment"	1247

means care that is complementary to or different from 1248
conventional medical care but is reasonable when the benefits 1249
and risks of the alternative medical treatment and the 1250
conventional medical care are compared. Alternative medical 1251
treatment does not include treatment with an investigational 1252
drug, product, or device under section 4731.96 of the Revised 1253
Code. 1254

Sec. 4731.96. (A) As used in this section: 1255

(1) "Drug" has the same meaning as in section 4729.01 of 1256
the Revised Code. 1257

(2) "Investigational drug, product, or device" means a 1258
drug, product, or device that has successfully completed phase 1259
one of United States food and drug administration clinical 1260
trials and remains under clinical trial, but has not been 1261
approved for general use by the United States food and drug 1262
administration. "Investigational drug, product, or device" does 1263
not include controlled substances in schedule I, as established 1264
pursuant to section 3719.41 of the Revised Code, and as amended. 1265

(3) "Product" means a biological product, other than a 1266
drug, that is made from a natural human, animal, or 1267
microorganism source and is intended to treat a disease or 1268
medical condition. 1269

(4) "Device" means a medical device that is intended for 1270
use in the diagnosis or treatment of a disease or medical 1271
condition. 1272

(5) "Terminal illness" means a condition that satisfies 1273
all of the following criteria: 1274

(a) The condition is caused by a disease, illness, or 1275
injury from which an individual is unlikely to recover if left 1276

untreated; 1277

(b) The condition is irreversible and incurable through a method of treatment approved by the United States food and drug administration; 1278
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(c) In accordance with reasonable medical standards and a reasonable degree of medical certainty, it appears that the condition is likely to cause death within twelve months. 1281
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(6) "Treating physician" means the physician or physicians primarily responsible for providing medical care and treating an eligible patient's terminal illness. "Treating physician" does not include the patient's primary care physician unless that physician is treating the patient's terminal illness and no other physician is primarily responsible for treating the terminal illness. 1284
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(B) An individual is an eligible patient if all of the following conditions are met: 1291
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(1) The individual has a terminal illness. 1293

(2) The individual, as determined by the individual's treating physician, has considered all treatment options for the terminal illness that are approved by the United States food and drug administration and determined that there are no satisfactory or comparable approved treatments and that the risk from the investigational drug, product, or device is no greater than the probable risk from not treating the terminal illness. 1294
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(3) The individual's treating physician recommends the use of the investigational drug, product, or device and agrees to either administer or personally furnish it or has issued a prescription to the individual for the investigational drug, product, or device. 1301
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(4) The treating physician includes documentation in the patient's medical record that all of the foregoing conditions have been met. 1306
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(C) (1) A treating physician may treat an eligible patient with an investigational drug, product, or device after securing the patient's informed consent in a signed statement. If the patient is a minor or lacks the capacity to consent, the informed consent must be obtained from a parent, guardian, or other person legally responsible for the patient. 1309
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(2) To secure informed consent, the treating physician must do all of the following: 1315
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(a) Record all of the following in the document that is to be signed: 1317
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(i) An explanation of the approved treatment options for the terminal illness from which the patient suffers; 1319
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(ii) The specific proposed investigational drug, product, or device; 1321
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(iii) The potentially best and worst outcomes of using the investigational drug, product, or device with a realistic description of the most likely outcome, including the possibility that new, unanticipated, different, or worse symptoms might result, and that death could be hastened by the investigational drug, product, or device; 1323
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(iv) An explanation that the manufacturer of the investigational drug, product, or device may hold the patient liable for all expenses that arise from the patient's use of the investigational drug, product, or device. 1329
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(b) Have the individual giving consent sign the document 1333

in the conscious presence of a competent witness; 1334

(c) Have the witness also sign the document and attest 1335
that the individual giving consent appeared to do all of the 1336
following: 1337

(i) Concur with the treating physician in believing that 1338
all approved treatment options would be unlikely to prolong the 1339
patient's life; 1340

(ii) Understand the risks involved with using the 1341
investigational drug, product, or device; 1342

(iii) Willingly desire to use the investigational drug, 1343
product, or device to treat the terminal illness. 1344

(D) Except for actions constituting willful or wanton 1345
misconduct, a physician who recommends or treats an eligible 1346
patient with an investigational drug, product, or device in 1347
compliance with this section is not liable for or subject to any 1348
of the following for an action or omission related to treatment 1349
with the investigational drug, product, or device: damages in 1350
any civil action, prosecution in any criminal proceeding, or 1351
professional disciplinary action. 1352

(E) Nothing in this section shall be interpreted as 1353
requiring any insurer, government health care program, or other 1354
provider of health care coverage to provide coverage for charges 1355
incurred from the use of any investigational drug, product, or 1356
device. 1357

Section 2. That existing sections 1739.05, 4729.291, 1358
4729.51, 4729.57, 4731.22, and 4731.227 of the Revised Code are 1359
hereby repealed. 1360

Section 3. Sections 1739.05 and 1751.691 of the Revised 1361

Code, as amended or enacted by this act, apply only to policies,	1362
contracts, and agreements that are delivered, issued for	1363
delivery, or renewed in this state on or after January 1, 2016.	1364
Section 3923.851 of the Revised Code, as enacted by this act,	1365
applies only to policies of sickness and accident insurance	1366
delivered, issued for delivery, or renewed in this state and to	1367
public employee benefit plans that are established or modified	1368
in this state, on or after January 1, 2016.	1369